Burdette B. Sherer, N700669.
Lillian G. Thompson, N701135.
Maidie E. Tilley, N700303.
Edna D. Umbach, N700342.
Rozene Wentz, N700215.

To be majors

Lucile B. Bacchieri, N701701.
Bernice W. Chambers, N700403.
Rosalie D. Colhoun, N702183.
Helen A. Dugan, N700305.
Pearl T. Ellis, N700355.
Elizabeth Fitch, N702129.
Anna M. Grassmyer, N700594.
Abigail B. Graves, N700255.
Frances C. Henchey, N700443.
Helen V. Johnson, N701800.
Pauline Kirby, N701952.
Dorothy M. Kurtz, N701884.
Mary Miller, N700260.
Mary J. Miller, N701895.
Dora A. Noble, N700773.
Amy R. Pendergraft, N702158.
Mary C. Scherer, N700530.
Sara M. Schoenberger, N700722.
Augusta L. Short, N701837.
Alice C. Wickward, N701883.

To be captains

Helen Adams, N702002.
Vivian L. Allmendinger, N702210.
Eleanor R. Asleson, N702583.
Mary S. Barry, N702357.
Estella Baylor, N702187.
Jaynie E. Belcher, N702279.
Monta R. Boswell, N702447.
Althea V. Buckins, N702574.
Burnett C. Drumm, N702479.
Blanche H. Eager, N700173.
Martha Fulwood, N702185.
Mabel E. Hause, N702159.
Myrtle C. Huhner, N701321.
Cecelia F. Kehoe, N701448.
Virginia K. Kilroy, N701155.
Ethel A. Lamansky, N701948.
Blenda M. Laverick, N702644.
Margaret M. Moss, N702488.
Julia I. Mullen, N700906.
Clemmie L. Reynolds, N702106.
Alvine L. Schmidt, N700782.
Catherine M. Underdown, N700292.
Lena Vanderwood, N702465.

To be first lieutenants

Irene C. Blochberger, N702966.
Aller M. Crowell, N703093.
Thelma Crowell, N703092.
Anna M. Hackett, N703076.
Emilie K. Jensen, N703013.
Marguerite M. Klein, N703004.
Blanche M. McAndrews, N703063.
Avis O. Meeks, N703034.
Mollie A. Petersen, N703086.
Helen A. Stack, N703024.
Mary M. Steppan, N703082.
Ruth M. Stoltz, N702916.
Frances P. Thorp, N703047.
Madeline M. Ullom, N703031.
Marguerite A. Yerger, N703035.

HOUSE OF REPRESENTATIVES

THURSDAY, JUNE 19, 1947

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, whose life is within us and whose mercy is about us, help us, with self-possession, without haste or confusion, to mark the path that we should follow. For our mistakes, for our insincerities and our tendencies, we ask Thy forgiveness. From the deep silences out of which voices are born, recalling regrets, grant that a divine emotion may be created by which are engendered joy and peace. Dear Lord, in the things which are divinely strong, we are humanly weak. Grant us, we pray, a newborn gladness in finding something new in old tasks, and thus welcome each day as a new beginning.

"Speak to Him thou, for He hears, and
Spirit with Spirit can meet;
Closer is He than breathing, and nearer
than hands and feet."

In our Lord's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 3792. An act to provide for emergency flood-control work made necessary by recent floods, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 110. An act to amend the Interstate Commerce Act with respect to certain agreements between carriers.

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 3303. An act to stimulate volunteer enlistments in the Regular Military Establishment of the United States.

The message also announced that the Senate insists upon its amendment to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GURNEY, Mr. BRIDGES, Mr. ROBERTSON of Wyoming, Mr. TYDINGS, and Mr. RUSSELL to be the conferees on the part of the Senate.

EXTENSION OF REMARKS

Mr. JACKSON of California asked and was given permission to extend his remarks in the RECORD and include an editorial and a letter.

PERMISSION TO ADDRESS THE HOUSE

Mr. GAVIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks and include an editorial.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAVIN. Mr. Speaker, some of those who were shouting oil shortage a few days ago are now trying to retrace their steps to a safer position. I hope that no lasting damage has been done by the assertions of some who are high in the administration.

The fact is that there is not a shortage of oil. There has always been somebody around to predict one—usually someone with no chips in the game at all—ever since Colonel Drake's day. I do not recall that the gloom ever before became as deep as it has been recently when the oil shortage became the concern of just about every Washington bureau. It sounded like the return of gasoline rationing and A coupons all over again.

There is, right now, some trouble over distribution of supplies of petroleum products. Some "spot" or local deficiencies have occurred. There are a few strikes still going on that have curtailed refinery operation, and the explosion and fire at Texas City several weeks ago affected seriously the refineries in that locality. There is also a deficiency in transportation. Steel is needed for building tank cars and pipe lines which would go into fields where there is now a developed production of crude in excess of transportation facilities.

I am told by those who are in close daily touch with the situation that the supply could be increased in areas where it is most greatly needed—the supply of crude oil for use in refineries of those areas—with more drilling. Here again it is a question of steel. Producers and drilling contractors from California to Pennsylvania tell the same story. They cannot get casing and tubing, and the pipe-line people—both in oil and natural gas—cannot get their requirements. Many hundreds of wells will not be drilled this year because of lack of tubular goods.

The trouble is not wholly a shortage of steel. The vast quantity that is going to foreign countries would enable producers here at home to drill many thousand wells and to put in secondary recovery projects in the old fields, further safeguarding our national supply of oil.

It has been a deliberate policy of the executive branch of the Government to stimulate the export of oil country tubular goods, and they have been highly successful. At the rate exports of these goods were moving in the first quarter of this year, it was indicated that the 1946 shipments might be nearly doubled.

When I said that there is no shortage of oil, I meant that the reserves now developed and those which can be found and developed in the United States will take care of us for a long time to come. But we should not forget that a shortage could be created. If the oil producers cannot get materials and equipment with which to drill and produce, the supply will naturally decline. There is some suspicion that certain bureaucrats would like to see that happen. It would add to the prospects for Government control of the oil industry if it could be made to appear that the industry was not doing a proper job, and it would satisfy the one-world crew in Washington who have already talked about internationalizing the world's oil under the United Nations control, giving Siam the same voice in policies over our oil as the United States would have.

I think the principal danger to our future supply is the continued presence in Washington of a group of oil experts who would not know a working barrel from a fractionating column. Some of them are left-overs from the OPA. They have jobs and few duties and lots of time to dream up controls.

The best I can find out from the oilmen themselves is that we will have enough petroleum products this year for ordinary needs, perhaps a little pinch in a few localities where transportation most seriously affects supply. Basically, as to raw material—crude oil—we are in good shape and with more attention to home affairs and less to the needs of Russia and some other parts of the world, the oil industry can take care of the job as it has always done.

THE STEEL SHORTAGE

[From the Oil City (Pa.) Derrick, of June 18, 1947]

United States Senator EDWARD MARTIN, of Pennsylvania, chairman of the subcommittee which is investigating the steel shortage, says his organization will go ahead until it finds out what is wrong and how to correct it.

The subcommittee proposes to take the testimony of an impressive number of small businessmen who have purchased large quantities of gray-market steel at exorbitant prices and who could keep their businesses operating in no other way. Old customers, according to the testimony, are unable to obtain steel even with a historical quota. Some newcomers are without sources of supply, while other newcomers are receiving consideration from supplying sources. Further testimony is needed to determine the extent and effect of integrated purchases and operations in the steel industry.

Evidence has been given the Martin subcommittee that certain steel products in export are causing unfavorable results to the domestic economy, especially in sheet steel and in steel pipe, casings, and tubings. The subcommittee needs further statistics on the export of steel products and further testimony by responsible Government officials on quota determinations, licensing controls and special Government projects requiring steel.

Senator MARTIN is taking a strong personal interest in the recovery of steel scrap. Figures at the end of last February showed that the scrap supply was less than half the prewar levels. He says the Government has it in its power to cure much of this shortage. The Government has the scrap, but it is not making it available. There are damaged Liberty ships fit for nothing but junking. There are surplus machine tools made for war production and now having no current use. There is an immense amount of war material left to rust on foreign beaches. He points out that not only is this steel being wasted but we are paying people to watch it.

"I understand," says Senator MARTIN, "that some time ago an order went out that our ships returning in ballast from foreign voyages should carry surplus war goods as ballast instead. I understand this was done for some time and some machinery brought back. Then the whole thing was dropped. Perhaps somebody wouldn't be bothered."

American consumers are clamoring for steel. This is especially true of the automotive industry. Yet American steel is going abroad. Its scarcity is creating fancy prices paid by American manufacturers. Scrap is not being gathered by the Government. Here we have a situation which should be corrected but nothing was being done about it until the Senate undertook the present investigation.

It is strange that a Government which has upward of 2,500,000 people on its pay roll cannot look after matters which mean so much to the people of the country.

EXTENSION OF REMARKS

Mr. SIMPSON of Pennsylvania asked and was given permission to extend his remarks in the RECORD.

ARMY ENLISTMENT BILL

Mr. CLASON. Mr. Speaker, on behalf of the chairman of the Committee on Armed Services I ask unanimous consent to take from the Speaker's desk the bill H. R. 3303, to stimulate volunteer enlistments in the Regular Military Establishment of the United States, with Senate amendments, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. ANDREWS of New York; SHORT, of Missouri; ARENDS, of Illinois; VINSON, of Georgia; and DREWRY, of Virginia.

EXTENSION OF REMARKS

Mr. POTTS asked and was given permission to extend his remarks in the RECORD and include an article.

Mr. ELLIS asked and was given permission to extend his remarks in the RECORD in three instances, in each to include a newspaper article.

Mr. JARMAN asked and was given permission to extend his remarks in the RECORD and include an address to the Greek Parliament by Deputy Bacopoulos thereof.

PRIVILEGE OF THE HOUSE

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks, and include therein a letter by Hon. Lloyd Binford, head of the moving-picture censorship of Memphis, Tenn.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. RANKIN. Mr. Speaker, I rise to a question of privilege of the House and offer a resolution (H. Res. 250), which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Whereas there is being shown at the Palace Theater, in the District of Columbia, a moving picture entitled "Duel in the Sun," that is filthy, debasing, and insulting to the moral instincts of decent humanity; and

Whereas the District of Columbia is under the protection of the Congress of the United States; and

Whereas we are charged with the responsibility of protecting the youth of the District of Columbia from such filth: Therefore be it

Resolved, That the House of Representatives call upon the police of the District of Columbia to either close the Palace Theater or prevent the further showing of this vicious film in the Palace Theater or in any other theater in the District of Columbia.

Mr. RANKIN. Mr. Speaker, the District of Columbia is under the jurisdiction of the Congress of the United States. It is our duty to protect the decent people of the District from the impositions to which they are subjected.

Mr. CELLER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state the point of order.

Mr. CELLER. Mr. Speaker, is it not the practice of the House, under the rules of the House, that a bill can come before the House only after being first reported from a committee?

The SPEAKER. The House can consider any resolution or bill properly brought before it.

Mr. RANKIN. Mr. Speaker, I am going to read you a letter from Lloyd T. Binford, head of the moving-picture censorship in Memphis, Tenn. I read this to one of the best Members of Congress this morning. He said, "I took my daughter to see that picture last night. It was horrible, and even my little child was shocked."

Mr. Binford wrote to David O. Selznick, producer of this picture, in Los Angeles, Calif., as follows:

Mr. DAVID O. SELZNICK,
Los Angeles, Calif.

DEAR SIR: It is with a feeling of regret that I must inform you that your production, Duel in the Sun, violates the city ordinance of Memphis pertaining to the showing of "obscene or salacious" public performances, either upon the stage or the screen. I say "with regret," because it is, indeed, regrettable that there are producers of stage and screen plays so disinterested in the welfare of the physical and spiritual health of the American people—especially of their boys and girls of impressionable age—that they make boards of censorship necessary.

In its Estimate of Current Pictures, the official organ of the Motion Picture Association of America says: "Duel in the Sun is a reflection upon the good taste of the motion-picture industry; the film is detrimental to the moral and cultural standards of the American screen." Archbishop Cantwell said: "Catholics may not, with a free conscience, attend the motion picture, Duel in the Sun; it is morally offensive and spiritually depressing." Dr. Fosdick, a great Protestant minister, said: "There is bound to be a reaction against this flaunting of promiscuous sensuality, this glorifying of adultery, this flippant deriding of love, which contributes to the demoralization of the social life."

The Memphis Board of Censors, after previewing Duel in the Sun, finds that it would not be in the public interest or welfare to approve the picture. It is a sexy, salacious story of illicit love, cold-blooded murder, adultery, and outlawry, the witnessing of which would have the effect of degradation, even upon the mind of a calloused adult.

This production contains all the impurities of the foulest human dross. It is sadism at its deepest level. It is the fleshpots of Pharaoh, modernized and filled to overflowing. It is a barbaric symphony of passion and hatred, spilling from a blood-tinted screen. It is mental and physical putrefaction.

Duel in the Sun begins with a double murder which takes place in a bedroom of a saloon and dive theater, and which is spawned and instigated by infidelity. The picture ends with a double murder brought to pass by a series of seductions and the destruction of a young woman's virtue. It is a tale of two lust-driven delinquents who rush through reams of sadistic love-making toward a final catastrophe of minds filled with murderous mania to the exclusion of even the tiniest spark of human decency. It is a story of jungle savagery which might have amused the people of Sodom and Gomorrah in the final moments of the destruction of those ancient, evil cities.

The scenes of rape of the half-breed Indian girl should not even be shown to the inmates of a "red-light district," much less

to decent adults. To permit innocent, unsuspecting children to see this lecherous depiction of sexual abnormality and brutality would be contributing to the delinquency of minors. For, in the finale of the picture, the two victims of the lowest form of depraved animal passion slaughter each other, and, with blood streaming from their wounds and sweat pouring from their bodies, press their mouths together in a last spasm of sadism and die in each other's arms.

To add flavor to this film of filth, an unordained minister of the gospel, known as the Sin Killer, offers prayers to God that are worse than blasphemous, irreverent, impious and profane. Christians unfortunate enough to enter a theater where Duel in the Sun might be shown, will cringe and shudder as they witness the scenes in which Walter Huston appears, and hear his sacrilegious outbursts.

Hollywood commentators and critics refer to Duel in the Sun as stark realism—it is stark murder! It is stark horror! It is stark depravity! It is stark filth! If Duel in the Sun is a sample of the manner in which a prominent and influential director is going to help preserve American ideals of honor and fidelity and decency—God help America!

LLOYD T. BINFORD,
Chairman.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield.

Mr. HALLECK. I asked the gentleman to yield to inquire of him whether or not he would consent to his motion's being referred to the Committee on the District of Columbia.

Mr. RANKIN. I was going to ask for its immediate consideration if I could get unanimous consent for that purpose.

Mr. HALLECK. I am sure the gentleman cannot get unanimous consent at this time. It strikes me the proper way to proceed would be to refer it to the Committee on the District of Columbia and let them investigate.

Mr. RANKIN. I may say to the gentleman from Indiana that these appeals have come to me from all over the country protesting against this film. Mr. Binford, of Memphis, sent me this copy of this letter which he wrote the producer of this picture, a letter which cannot be answered.

As I said, a Member of the House told me this morning that he took his little girl to see this picture and he said it was shocking and revolting.

Congress is the governing body of the District of Columbia. The people here look to the Congress to protect them.

I do not want this thing to die in the committee and let this salacious film continue to be spread before the eyes of children in this District.

Mr. HALLECK. Mr. Speaker, will the gentleman yield further?

Mr. RANKIN. I yield.

Mr. HALLECK. The gentleman, of course, did not say anything to me about his proposal. I have not seen the picture, I know nothing about it. Certainly the gentleman would not want the House of Representatives to act upon his resolution with nothing more before it than the gentleman's statement. In other words, in the interest of orderly procedure it would seem to me that the gentleman would be in sympathy with a suggestion that the matter be referred to the Committee on the District of Columbia for investigation by them.

Mr. O'TOOLE. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield.

Mr. O'TOOLE. In my city, New York City, the picture, Duel in the Sun, is losing hundreds of thousands of dollars because of the fact that the decent, church-going element have quietly boycotted the picture. I think, however, that the gentleman from Mississippi is giving the picture a hundred thousands dollars' worth of free advertising this morning that will cause a terrific interest in it and will cause the producer to owe him a debt that he can never repay.

Mr. RANKIN. Do Members of the American Congress propose to sit here and let this kind of filth and debasement be shown before the eyes of children who have to look to us for protection?

Mr. O'TOOLE. We are handling it rather well in our own way in New York City. They can do it in the District of Columbia. They did it in Memphis, too.

Mr. DIRKSEN. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield.

Mr. DIRKSEN. I may say to the gentleman from Mississippi that I have not seen the picture nor have any formal complaints come to me with reference to it. But I assure the gentleman that if his resolution were referred to the District of Columbia Committee it would receive immediate attention.

Mr. RANKIN. Mr. Speaker, since the Committee on the District of Columbia is going to investigate this proposition, I want to read to you from another letter by Mr. Binford relative to the moving picture called Monsieur Verdoux in which Charlie Chaplin plays an unenviable part. I hope while the Committee on the District of Columbia is investigating this loathsome picture called Duel in the Sun they will also investigate this monstrosity known as Monsieur Verdoux and join me in calling upon the Attorney General to institute proceedings to deport Charlie Chaplin at once.

Mr. Binford's letter, to which I refer, reads in part as follows:

UNITED ARTISTS CORP.,
St. Louis, Mo.

GENTLEMEN: * * * Monsieur Verdoux made a business of using and disposing of women, characteristic of the author, in a different way, who is not an American citizen and whose reputation, personal conduct, and communistic leanings deserve the contempt of all decent people.

Charlie Chaplin is a traitor to the Christian American way of life, an enemy of decency, virtue, holy matrimony and godliness in all of its forms; and his reputation as a perverter of home life and of childhood, if true, should have justified his deportation for moral turpitude long ago.

America has been kind to this former London guttersnipe, in permitting him to reside here for more than a generation without becoming a citizen, although he has been raised from the status of a steerage refugee to wealth; and what has he done with his millions of American dollars? Used it for un-American propaganda purposes? To pay off young girls and women whose virtue he has destroyed, and whose lives he has disgraced and wrecked? Is it true that he was engaged in the infamous act of mercilessly persecuting a girl, less than half his age, who claimed that he had betrayed her, and whose illegitimate child he fathered?

Westbrook Pegler, in referring to Chaplin's trial said: "It was a trial which revealed him as a vicious old man still as nasty at 56 as he had been throughout his earlier years."

Is it true that Chaplin assisted Joe Stalin's friend, Lion Feuchtwanger, to gain admission into the United States? In Feuchtwanger's book, Moscow 1937, he eulogized Stalin and the Bolshevik regime. He said on pages 149-50, when referring to the United States: "The air which one breathes in the West is stale and foul—one breathes again when one comes from the oppressive atmosphere of a counterfeit democracy and hypocritical humanism, into the invigorating atmosphere of the Soviet Union." Chaplin's conclusive moral thesis and savage note of bitterness is distinctive communism.

Now comes this insolent reprobate asking the people of America to drop more millions of their dollars into the box office of theaters, which might insult its patrons with Monsieur Verdoux, in order that he may use such dollars to disgrace other trusting girls, and destroy the land whose atmosphere is stale and foul? If there is any staleness or foulness about the atmosphere of America, it is because too many men of the Chaplin stripe are permitted to live and to prosper in it.

The Independent Theater Owners of Ohio, comprising over 300 exhibitors, has adopted a resolution calling on theater owners throughout the United States to give serious thought on the matter of withholding time from Monsieur Verdoux saying: "Screen time should not be dissipated upon a screen personality such as Chaplin." The ITO advocates a Nation-wide theater owners' boycott of Chaplin films.

LLOYD T. BINFORD,
Chairman.

Mr. Speaker, again I say that it is the duty of the Congress to protect the children, as well as the adults, of the District of Columbia from these filthy, salacious, and immoral films.

Mr. Speaker, I withdraw my request and ask unanimous consent that the resolution be referred to the Committee on the District of Columbia.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to withdraw his request and asks that the resolution be referred to the Committee on the District of Columbia.

Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mr. PICKETT asked and was given permission to extend his remarks in the Appendix of the RECORD and include a resolution.

Mr. COURTNEY asked and was given permission to extend his remarks in the Appendix of the RECORD and include a short newspaper article.

PHONY BUDGET CUTS

Mr. EBERHARTER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks and include therein certain correspondence.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EBERHARTER. Mr. Speaker, yesterday the distinguished gentleman from Tennessee [Mr. GORE] very ably

clarified for the Members of Congress and the American public the phony nature of the Republican claims of reductions in the President's budget. Members of the Committee on Ways and Means are given the responsibility of supplying the revenues to run the Government. The Appropriations Committee is primarily responsible for determining the amount of money spent. Nevertheless, when the justification for tax reduction is an extravagant claim of a budgetary surplus members of the Committee on Ways and Means must take into account the appropriations picture.

In the debate on the conference report on H. R. 1, I pointed out that the majority had already abandoned their promise of a cut of four and one-half to six billion dollars in the President's budget, and that at least half of the reduction of two and eight-tenths billions then claimed were phony. The two items which appeared illusory paper transactions to me were the first and fourth items on Mr. GORE's list of false budget-cut claims; namely, postponement of tax refunds totaling $800,000,000 and Treasury cancellation of CCC notes amounting to six hundred and forty-two millions. In the case of tax refunds, Mr. Speaker, there can be no question. On the second item I was not so certain, since it presented an involved matter of Government budgeting and accounting. As I indicated in the House on June 2, I wrote to the Director of the Bureau of the Budget requesting written verification of my impression that the shift of the $642,000,000 CCC item from 1948 to 1947 failed to decrease appropriations for 1948 or to increase appropriations for 1947. On June 12, Mr. F. J. Lawton, Acting Director of the Bureau of the Budget, replied that—

Your impression that total estimated receipts and expenditures in the budget for 1948 is not affected by cancellation of the notes is correct; nor are the estimated budget receipts and expenditures for the fiscal year 1947 affected by the inclusion of the authority for the cancellation of such notes in one of the deficiency appropriation bills for 1947.

Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point my correspondence with the Bureau of the Budget:

JUNE 4, 1947.

Mr. JAMES E. WEBB,
Director, Bureau of the Budget,
State Department Building,
Washington, D. C.

DEAR MR. WEBB: I understand that an item in the President's 1940 budget for cancellation of notes of the Commodity Credit Corporation has been included in one of the deficiency appropriation bills for the fiscal year 1947.

It has been suggested to me, inasmuch as this item appeared as both a debit and credit item in the President's estimates of expenditures for 1948, that no reduction in the budget totals for 1948 results from the transfer of this appropriation item to fiscal year 1947 appropriations.

Will you please advise me whether my impression about this matter is correct?

Sincerely yours,

HERMAN P. EBERHARTER,
Member of Congress.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., June 12, 1947.

Hon. HERMAN P. EBERHARTER,
House of Representatives,
Washington, D. C.

MY DEAR MR. EBERHARTER: I have your letter of June 4 addressed to Mr. Webb, concerning the effect which the cancellation of notes of the Commodity Credit Corporation has upon the estimated budget expenditures.

Your impression that total estimated receipts and expenditures in the budget for 1948 is not affected by cancellation of the notes is correct. Nor are the estimated budget receipts and expenditures for the fiscal year 1947 affected by the inclusion of the authority for the cancellation of such notes in one of the deficiency appropriation bills for 1947. The original estimate of the notes of Commodity Credit Corporation to be canceled by the Secretary of the Treasury, $830,380,311, will be found in the budget document in table 10, page A107, included as an expenditure of general and special accounts. The same amount, $830,380,311, is also included as a credit to the expenditures in the checking account of the Commodity Credit Corporation in arriving at the credit figure of $500,000,000 in table 14, page A112, of the budget document. The totals of the estimates in tables 10 and 14 make up the "total budget expenditures" as summarized in table 3, page A6, of the budget document.

When the estimated amount to be canceled was reduced by $188,548,730 to $641,832,081 in House Document No. 186, the budget estimate totals were not affected. The reduction in the estimated expenditures in the general and special accounts of $188,548,730 was offset by a reduction of an identical amount in the credits in the corporation checking accounts with the Treasurer of the United States; thereby making the estimated expenditures in the checking accounts that much higher. Likewise the change in the effective date from fiscal year 1948 to fiscal year 1947 did not change the budget totals for either year.

The reason for this is that the funds, making up the total of the notes to be canceled, were expended in years prior to the fiscal year 1947 and in Treasury reports they were included in the expenditures of such prior years in the checking account of the Commodity Credit Corporation. The write-off of the notes by the Secretary of the Treasury is actually accomplished by a bookkeeping transaction showing the amount of the notes canceled as an expenditure in the general and special accounts of the Treasury and as a credit to (i. e., a deduction from) the expenditures in the Commodity Credit Corporation's checking account with the Treasurer of the United States, in the same amount and in the fiscal year in which the authority is granted to cancel such notes.

The effects of the cancellation of notes are (1) to eliminate the liability of the Commodity Credit Corporation to the United States Treasury in the amount canceled, (2) to charge off the assets of the Treasury represented by the notes canceled, (3) to relieve the Corporation from further interest charges on the amount canceled, and (4) to restore the borrowing authority of the Corporation by the amount canceled.

Sincerely yours,

F. J. LAWTON,
Acting Director.

EXTENSION OF REMARKS

Mr KLEIN asked and was given permission to extend his remarks in the Appendix of the RECORD and include a statement by the National Clergymen's Committee on the Taft-Hartley bill.

Mr. HUBER asked and was given permission to extend his remarks in the RECORD and include a newspaper article.

Mr. DURHAM asked and was given permission to extend his remarks in the RECORD and include a couple of editorials.

Mr. CELLER asked and was given permission to extend his remarks in the RECORD on two subjects.

Mr. BOGGS of Louisiana asked and was given permission to extend his remarks in the RECORD and include an address.

PRESIDENT'S VETO OF THE TAX BILL

Mr. BOGGS of Louisiana. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BOGGS of Louisiana. Mr. Speaker, because of an engagement of long standing to address a forum at Tulane and Loyola Universities in New Orleans, I was unable to be present Tuesday when the vote came on the President's message in reference to the tax bill. I take this opportunity to state that had I been here I would have voted most emphatically to sustain the President's veto, which I consider an act of statesmanship and an act putting national solvency and sound national credit above political expediency. I have been amused at the cries about spending and spending when the Nation knows that every nickel spent by this administration must be appropriated by this Congress, which is dominated by the Republican Party.

The SPEAKER. The time of the gentleman from Louisana has expired.

REVISION OF COURT-MARTIAL PROCEDURE

Mr. BURLESON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURLESON. Mr. Speaker, someone to the right or left, or in between Shakespeare and Alexander Woollcott, said that when they felt the urge to exercise coming on they would lie down until the feeling passed. I have tried the practice in this House. When I have felt like saying some things, I have sometimes walked out of the Chamber or to the cloakroom to eat a banana. But the time has come now in the matter of a revision of court-martial procedure for the Army and Navy that I feel I must speak out. I do not know whether it is going to do any good or not. But the sands are running out and I see no evidence that this question is going to receive consideration during this session of the Congress.

The majority party has not indicated that it expects to put this needed legislation on the must list. I say to you that all atrocities perhaps were not committed by our enemies in the last war. There is a crying need for revision of our procedure in military law that will give

the boy in service who may be charged with an offense the same right to defend himself properly as is accorded the common criminal in most of the jurisdictions of State courts of this country.

The SPEAKER. The time of the gentleman from Texas has expired.

THE PICTURE, DUEL IN THE SUN

Mr. CELLER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CELLER. Mr. Speaker, we have witnessed the rather unusual spectacle this morning of the gentleman from Mississippi under the guise of the privileges of the House seeking to ask immediate consideration of a bill that would call upon the police to stop the showing of a picture in the District of Columbia. Ordinarily a bill must go to a committee. It is threshed out in that committee, where witnesses are heard. The gentleman from Mississippi would overrule all the procedure of the House and have us consider a bill in the fashion he sought this morning.

I have not seen that picture and I do not think the gentleman from Mississippi has seen the picture. He speaks from knowledge that he obtained from other sources rather than from an actual view of the picture itself. The picture, as a matter of fact, is no longer being shown in Washington. The passage of the gentleman's resolution would be abortive. He would be the keeper of the Nation's morals.

Mr. Speaker, I presume the gentleman from Mississippi is going to act as censor over Shakespeare, Congreve, and Pryor who are probably no worse or no better, as to bawdy or immoral connotations, than Duel in the Sun.

Without commenting upon the merits or demerits of the picture, we deplore the gentleman's self-constituted role of censor.

The SPEAKER. The time of the gentlemen from New York has expired.

MOTION PICTURES

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RAYBURN. Mr. Speaker, I take no part in this controversy about these motion pictures, because I have seen neither one of them, but every Texan who has seen Duel in the Sun thinks it is a slander on the fair name of the State of Texas.

COMMUNITY-PROPERTY STATUS FOR ALL MARRIED TAXPAYERS

Mr. LANE. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LANE. Mr. Speaker, under the present application of income-tax laws, marriage is considered to be a full partnership in 10 States, but not so in the remaining 38.

This inconsistency means that the married taxpayers of 38 States are paying heavier taxes, couple for couple, than those living in the 10 States which have community-property laws on their statute books.

In the 10 preferred States the United States Department of Internal Revenue allows married couples to divide the annual income for taxation purposes even though the husband may have earned all of the income. This results in a saving of one-quarter to one-third for couples living in the 10 community-property States.

To bring the point home, let us compare the income-tax liabilities of two taxpayers, both of whom are married, have no dependents, and whose official salaries constitute their only family income. Let us assume that taxpayer A lives in a community-property State, and taxpayer B in a non-community-property State, and that the salary of each is $15,000.

Taxpayer A will pay a tax of $2,869.

Taxpayer B will pay a tax of $3,842.

In other words, taxpayer B pays $973 more than his colleague, even though the family status and income of both are identical.

This is a form of economic discrimination which really hurts.

Breaking the comparison down into details we get these contrasting tables:

Taxpayer A

Self:	
Income	$7,500
Standard deduction	−500
Personal exemption	−500
Net taxable income	6,500
Wife:	
Income	7,500
Standard deduction	−500
Personal exemption	−500
Net taxable income	6,500

Total tax for self and wife, $2,869.

Taxpayer B

Self:	
Income	$15,000
Standard deduction	−500
Personal exemptions	−1,000
Net taxable income	13,500

Total tax, $3,842.

Such a disparity leads us to inquire into the meaning of community property.

This legal concept was introduced into the United States by Spanish and French settlers. Community property is that marital property which is not the separate property of either husband or wife. Prior to their marriage, the husband and wife, as individuals, may have accumulated property; and insofar as each is willing, by contract, to perpetuate his or her individual ownership of such accumulations after marriage, the said accumulations of wealth constitute the separate property of the husband or wife. Subject to the exception that a husband or wife may retain as his or her separate possession the property which the husband or wife acquires after marriage from a third party by gift or will, all other property that accrues after marriage is presumed by the community-property States to be the product of the joint endeavors of the husband and wife, even though the wife's contribution in reality may amount to no more than that of a housekeeper; and in the property thus accruing the husband and wife are each said to possess a vested and undivided one-half interest. The latter form of ownership, which attaches only to property acquired during the existence of the marital relationship, terminates upon the death of one of the spouses, or the dissolution of marriage by divorce.

The advantage enjoyed by married taxpayers living in community-property States is derived from the assumption underlying the community-property concept that income accruing after marriage is the product of the joint endeavors of the wife with her husband. By this theory, the salary of the husband, who may be the sole producer of income, becomes the common property of the wife and her husband, each having a vested one-half interest therein. Accordingly, in meeting Federal income-tax requirements, the husband need report only one-half of his total income, which for the purposes of this illustration, represents salary only, and his wife may file a return reporting the other half. Each is entitled to all the privileges granted to income taxpayers; that is, each, as to his or her income reported, is entitled to the same deductions, to the same accounting methods for computing gains and losses, and to the rates applicable to the net income disclosed in the return. The only limitations are the requirements that deductions for dependent children may not be split, but must be taken in full by one of the taxpayers and, secondly, that the community income must be divided evenly between the husband and wife. The latter requirement must be observed even when the husband and wife are wage-earners. Furthermore, sums withheld from salary by employers in current payment of Federal income taxes must be totaled and divided evenly.

If the Federal income tax involved the imposition of a single rate upon net income, of whatever size, the economies enjoyed by married couples in community-property States would be small. It is the levy of progressively higher rates on large incomes which makes the community-property system attractive to the taxpayer; for, by division of income, it is possible to utilize rates applicable to the smaller and equal halves of a large income which will be lower than the rates imposed upon the entire income. It is believed that net income must exceed $3,000 before any savings are affected by splitting the income of the husband into two parts and having one-half credited to the wife.

In Massachusetts, as in other non-community-property States, there is a movement to correct this inequality in taxation. The strategy of seeking relief from this discrimination through the State legislatures, appears to be the wrong approach. A community property bill would necessitate the complete overhauling of property laws and bring chaos to the fields of probate, real estate, domestic relations, and other branches of the law. The greatest losses would

be sustained by third parties, chiefly creditors. They may discover, in transactions with the husband, that the latter was not legally competent to pledge as assets securing his debts the property which appeared to be his own. All evidence of wealth that are employed in business transactions, such as real estate, bank deposits, securities, and insurance, would have to be evaluated by the creditor in terms of the wife's interest therein if the assets appropriated in the event of a default are not to prove inadequate.

How to remove the income tax discrimination without upsetting the whole body of property laws is the question.

A community-property bill, passed by the individual State, is not the answer.

The logical method of equalizing the tax is that suggested by Professor Griswold, of Harvard Law School. He advocates a congressional enactment which would establish the income for all married couples as twice the tax on half the income. A married man, making $10,000 a year, would make a return on $5,000, and his wife would make a similar return. The total would be substantially less than a tax on the $10,000 as a whole.

The President has called for a thoroughgoing revision of the tax system. The community-property concept applied to the income-tax laws is one reform that merits our immediate approval.

EXTENSION OF REMARKS

Mr. JONES of Alabama asked and was given permission to extend his remarks in the RECORD and include a resolution adopted by the Alabama legislature.

Mr. KEATING asked and was given permission to extend his remarks in the RECORD in two instances; to include in one editorials appearing in the Rochester Times-Union and the Washington Evening Star, and in the other an editorial appearing in the New York Times.

INVASION MONEY REDEMPTION

Mr. RICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RICH. Mr. Speaker, a great many of the Members probably have heard radio commentator Fulton Lewis, Jr., last night describe one of the worst acts of the New Deal when former Secretary of the Treasury, Henry Morgenthau, by and with the consent of the former President of the United States, the President who appointed him as Secretary of the Treasury. This Secretary of the Treasury gave to Russia American printing presses in order that they might print American invasion dollars to be redeemed by this country with gold at $36 an ounce. All that Russia has to do today is to take a little paper and print the money, and then we pay in gold. We have paid to the extent of some three or four hundred million dollars already. How much more we have to redeem no one knows. No one in the history of the Nation ever heard of anything so ridiculous and asinine as that, and to think that Russia is in the position, if they print more of that paper money, that we have got to pay good American coin to redeem it. It seems to me that the President of the United States and Secretary of the Treasury Snyder should recall those printing presses at once and stop such ridiculous procedure as that. To think that Russia prints our invasion money, at very little cost, if any, to Russia—and that we as a nation must redeem that paper currency at the rate of $36 an ounce for gold for each dollar of worthless paper money, which we redeem, and we are obligated to redeem it all. Stop it—stop it at once, notify Russia at once, Mr. President, to return our printing equipment and put it in the Bureau of Engraving and Printing where it belongs. You can see what happens to our American taxpayers when you elect incompetents to office. Take notice and act accordingly in 1948 when you elect a President and a Congress. Enough said—vote Republican.

REDEMPTION OF OCCUPATION CURRENCY IN EUROPE

Mr. SABATH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SABATH. Mr. Speaker, I cannot allow to pass unchallenged the remarks of the gentleman from Pennsylvania [Mr. RICH], who has spread upon the RECORD extracts from one of the exceptionally misinformed broadcasts of a highly commercialized radio commentator named Fulton Lewis, Jr.

This radio "news" caster who is notorious for the wide gulf between the content of his broadcasts and his unctuous and often-repeated statement, "These are the facts, ladies and gentlemen," rather outdid himself in his loose charges that the Government will lose millions upon millions of dollars through the redemption of occupation currency in Europe.

Listening to Mr. Lewis is not, Mr. Speaker, one of my favorite forms of relaxation. My opinion of the National Association of Manufacturers is a matter of widespread public knowledge, and Mr. Lewis' propagandizing for the NAM and its accomplices, both as a paid employee and as a volunteer laborer in the vineyards of big money, has not endeared him to me.

If, however, his comments were completely factual, and his opinions were labeled as such and not handed out as substantiated fact, I would merely discount him as one of the crosses we must bear in the name of free speech.

FREQUENTLY MAKES RECKLESS CHARGES

The fact is, however, that this is not the first time that Mr. Lewis, in his burning zeal for sensation, has made reckless charges which he was subsequently unable to prove. He has the advantage of 15 minutes of coast-to-coast radio hook-up, plus a repeat broadcast, and the denials and disproofs seldom catch up with the velocity of the original misstatements.

In the present instance, he has made grave and serious charges and has repeated them while the most responsible officers of our Government have been quoted in all newspapers and by all fair and reputable commentators in denial of the charges and in explanation of the true facts.

I feel that the gentleman from Pennsylvania [Mr. RICH], who daily calls our attention to the country's financial state and to our national debt, should have taken Mr. Lewis' no doubt sensational but as yet unproven reports on the transactions in occupation money with several grains of the proverbial salt, except that the gentleman himself is somewhat prone to the same weaknesses as Mr. Lewis.

CHARGES DENIED BY SECRETARY PATTERSON

As it happens, I have here in my hand a story from the Chicago Daily News of Thursday, June 12—just a week ago—which I cut out only this morning myself because this headline caught my eye: "We won't lose dime on marks—Patterson."

Now, I am willing to take the word of the Secretary of War, who is himself, as you may recall, a Republican and a former jurist of the highest probity, and respected by everyone, regardless of party, in preference to any wild statements by Fulton Lewis, Jr.

I do not think that charges like these should be so recklessly bandied about from time to time. America has come of age, and it is time that the bad boys of the press and radio should show the same kind of mature responsibility that the majority of journalists have displayed for many years past. I have long championed free speech, and I do not for a moment suggest that any relevant fact should be kept from the American people. I suggest only that charges be proved before they are made public under such sensational circumstances.

In this case Mr. Lewis continued his charges days after the full facts had been made public by the War Department and other agencies concerned.

Mr. Speaker, I ask unanimous consent to extend as a part of my remarks this article and other articles from outstanding men who have the interest of the country at heart and who believe in the truth.

Mr. RICH. Mr. Speaker, reserving the right to object, the statements that were made by Mr. Lewis, in reference to the article which the gentleman is printing, were to the effect that this money is being redeemed now and that they redeemed over $600,000,000, and you are going to redeem more, and nothing was ever so ridiculous in the history of America as a thing like that.

Mr. SABATH. Sure, it is being redeemed, but not at the expense of the American people; and it will not cost the Government a penny. The gentleman, before quoting so frail an authority as Fulton Lewis, Jr., should inform himself fully on the subject.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PAPERS CARRIED STATEMENT

Mr. SABATH. All the wire services carried the original sensational stories and then covered also the War and Treasury Department statements and explanations. I insert at this point the story to which I have already referred, taken from the Chicago Daily News of Thursday, June 14, 1947, just 1 week ago:

WE WON'T LOSE DIME ON MARKS: PATTERSON

WASHINGTON.—The War Department said today the American taxpayer won't lose "one thin dime" by the occupation currency transactions in Germany.

Senator KNOWLAND (Republican of California) and several other GOP Senators fear American taxpayers will be stuck with a bill for from four hundred to nine hundred million dollars through redemption of Russian-printed occupation notes flowing into the United States zone.

Secretary of War Patterson replied that Army expenditures for German labor and goods will liquidate all the occupation currency "in about 1 year," and hence cost taxpayers nothing.

He said he would welcome the investigation planned by the Senate Appropriations Committee.

Senator BRIDGES (Republican of New Hampshire), chairman of the Appropriations Committee, said the hearings would get under way next week with testimony from "top echelon" officials of the State, War, and Treasury Departments.

BRIDGES said he wanted more details on the transaction whereby the Russians received American engraving plates to run off more than 1,600,000 occupation notes on Soviet printing presses.

The Army said it has no knowledge of the Russians "milking" United States dollars out of the American zone. It explained that when the United States, Britain, France, and Russia completed the conquest of Germany they agreed to a joint issue of currency and use of the same printing plates.

"THESE ARE THE FACTS, LADIES AND GENTLEMEN"

Now, Mr. Speaker, to paraphrase Mr. Fulton Lewis, Jr., but with more factuality, "These are the facts."

The United States Government has not undertaken to redeem occupational German marks or Japanese yen, but instead has exchanged foreign currencies for its United States Armed Forces and American or allied civilian personnel attached to its Armed Forces in the occupied areas. Personnel of our Army and Navy in Japan and Germany were paid in Japanese yen and German marks prior to July and September 1946, respectively. They accordingly were allowed the privilege of exchanging the unneeded portion of their yen or marks, received as pay and allowances, into United States dollars. Facilities were provided whereby funds could be transmitted to any person, bank, or agency in the United States on a moment's notice. Numerous family crises were averted or solved by this administrative provision. Having been paid in these foreign currencies, it became an obligation of the United States Government to convert these foreign currencies, in reasonable amounts, back into dollars.

Part of the marks on hand were received from the legitimate sale by agencies of the United States Government of goods or services to agencies or personnel who had only marks with which to pay for them.

The Army and Navy have not paid their troops in yen or marks, nor have they converted any yen or marks into dollars, since July and September 1946, respectively.

Russia served notice in the Allied Control Council for Germany in Berlin that she had discontinued issuing marks on July 1, 1946.

WILL AMERICAN TAXPAYERS PAY ITALIAN REPARATIONS?

The armed forces do not hold any Italian occupational lire which must be redeemed or converted into United States dollars. All Allied military lire have been redeemed by the Italian Government and have been withdrawn from circulation.

With regard to reparations for Italy, these reparations will not start until 2 years after the ratification of the peace treaty, unless by special agreement by the Italian Government. Reparations are to be scheduled in such a way as to avoid imposition of any additional liabilities on other Allied or Associated Powers.

ONE HUNDRED AND FORTY MILLION DOLLARS SAVED TO TAXPAYERS

In the course of the handling of billions of dollars worth of some 75 different foreign currencies, the armed forces effected considerable savings to the United States Government by obtaining protection against devaluation for these holdings of currency. Although not a profit, the savings thus effected totaled in excess of $140,000,000.

The inference is drawn rather assiduously that all these marks resulted from black market operations, or dealings with the Russians. Such is not the case. Many of the marks were acquired in the normal operation of our military activities overseas, wherein we perforce acted in the same capacity as a bank dealing in exchange. If profits were made in these dealings, they were made by the American soldier. Had they been made by Mr. RICH's business establishment in international trade, that would have been quite all right; but for a soldier, it is all wrong.

ARMY HOLDS ONLY $160,000,000 DEBIT

Furthermore, instead of the vast deficits alleged by Mr. Lewis, we find the War Department has a debit balance of only $160,000,000 in German marks and Japanese yen at this time. It has plans for liquidation of these holdings by the end of 1948. The War Department does not propose to ask Congress for an appropriation to effect this reduction.

I note also that in Mr. Fulton Lewis' statement read to the House by the gentleman from Pennsylvania [Mr. RICH] that Mr. Lewis still persists in saying War Department officials gave the plates to the Russians. The authenticity of this statement is about on a par with many others made by Mr. Lewis by which he misleads that portion of the American public which places any credence in him. Had Mr. Lewis merely stated that the plates were turned over to the Russians by the United States Government, he would have been correct; but in his animosity toward the War Department, he attributes the turning over of the plates to War Department officials.

I have no doubt but that a representative of Fulton Lewis was present at the hearings before the Senate committee investigating foreign currency. There under oath, it was testified that on orders of an official of the Treasury Department the plates were turned over to the Russians at the Washington Airport by the Bureau of Printing and Engraving. It was also testified under oath, that the decision to turn them over was a matter which the State and Treasury Departments made after conferring with their British opposites. I find no fault with the decision; but I do find fault with Mr. Lewis who, to suit his own animosities, presents other than the facts.

FACTS ARE AVAILABLE TO ALL

The fact is, Mr. Speaker, that the true facts are available to all newspapermen and writers. This very week the Committee on Foreign Currency Transactions, a special joint committee composed of subcommittees of Committees of the other House on Armed Services, Banking and Currency and Appropriations, has held hearings on this very question. The Honorable Howard C. Peterson, the Assistant Secretary of War, whom many of us know personally, and in whom we have great faith, spoke Tuesday of this very week, just 2 days ago, on behalf of the Secretary of War. While this will be available in the printed hearing, together with other testimony, I feel that the inclusion of this statement by the Under Secretary is justified at this point by the importance of the subject and the widespread publicity given to misinformation and reckless and unprovable charges.

STATEMENT OF HOWARD C. PETERSEN, THE ASSISTANT SECRETARY OF WAR, BEFORE THE SENATE INVESTIGATING COMMITTEE ON FOREIGN CURRENCY TRANSACTIONS, TUESDAY, JUNE 17, 1947

Mr. Chairman and gentlemen, I will discuss in broad outline the foreign currency problems resulting from our military operations in World War II. My statement will serve, I trust, to introduce the subject to this committee and serve as a background for the testimony of witnesses who will follow me. I will confine myself principally to matters within the purview of the War Department. Both the State and Treasury Departments had a policy-making role in this field. The War Department, however, like the Navy Department, and its field forces had the operating responsibility in foreign exchange matters. Representatives of the State and Treasury Departments are here today.

The War Department is prepared to present in as much detail as the committee deems necessary a full accounting of the discharge of its responsibilities in dealings in foreign currencies. Much of this testimony will be somewhat technical. It will be presented by expert witnesses who will follow me. I did not know anything about this subject, nor did I have any responsibility with respect to it, prior to December 1945 when I took my present office.

THE PROGRAM

The Armed Forces, through the operations of their finance offices overseas, necessarily became engaged in large-scale foreign-exchange operations which involved the handling of over $11,000,000,000. In making these transactions there accumulated substantial holdings of foreign currencies in excess of dollars appropriated by Congress which could properly be used for the conversion into dollars of these holdings. All foreign currency

used by the Armed Forces for pay of troops or for local procurement, except in occupied areas, or other purposes authorized by Congress was dollar backed. However, because currency controls which were feasible under combat and redeployment conditions proved inadequate and because of other factors which I shall relate, foreign currencies in a total amount of $380,000,000 were redeemed for dollars by armed forces finance offices in excess of the dollars appropriated by Congress. Through methods of liquidation which have been decided upon and are now in operation, this $380,000,000 of excess holdings of foreign currency is being reduced to $160,000,000. Plans for the liquidation of this remaining amount have been approved by the executive departments concerned and it is expected that this liquidation will be consummated over the next 18 months. The War Department does not propose to ask Congress for an appropriation to effect this reduction.

When the conversion of foreign currencies was stopped, the Armed Forces held $380,000,000 worth. Of this, $250,000,000 were in marks, $75,000,000 were in yen, and the remainder in various other currencies. Of the $160,000,000 remaining to be liquidated $100,000,000 are in marks and $60,000,000 are in yen.

The conversion of local currency into dollars ceased when the military-payment-certificate plan went into effect in Japan and Korea in July of 1946 and in Europe in September of 1946. Since those dates there have been no further receipts of foreign currencies.

CURRENCY PROBLEMS ARISING FROM THE WAR

Currency problems arising during and after World War II were numerous and exceedingly difficult of solution. The first, and overriding, rule in their solution was, of course, that they must take second place to considerations having a direct bearing on the vigorous prosecution of military operations. At the same time the State, Treasury, Navy, and War Departments were at all times aware of the importance of foreign-currency transactions involving the staggering sum of $11,000,000,000.

The first decision which had to be made was whether the United States would use dollars or foreign currencies in its military operations abroad. Having decided to use foreign currencies, it was necessary to develop methods for their acquisition. Then it was necessary to insure that the American soldier would suffer no loss because of receiving his pay in foreign currencies. And in all cases there were complex preparations to be made with regard to currencies before our invasions. These preparations had to be made with much secrecy and in such a way as to further the prospect of success of military operations.

DECISION TO USE FOREIGN CURRENCIES

The decision to use local currencies in overseas areas was arrived at early in the war after an intensive study of the problem by all United States departments concerned, fullest exploration of the problems with our allies, and after a thorough review of all of the implications resulting in a decision to use either American dollars or the local currencies. That decision was reported to the Congress in a report on House Resolution 150 (79th Cong., 1st Sess.), submitted to the chairman of the House Committee on Military Affairs dated April 28, 1945. That report covered the method of payment of troops in foreign currencies and the provision made for the reconversion into dollars.

POSSIBLE EFFECT OF USE OF DOLLARS ON MILITARY OPERATIONS

The use of dollar currency would have made it more difficult to maintain order behind our lines. The use of dollar currency, causing lack of confidence in the local currency, might well have caused a break-down in the economic life and the general political stability of areas through which supplies for our armies had to pass. The maintenance of a uniform rate of exchange would obviously become difficult. Worst of all, it might well have led to a situation in which in the local economy suppliers would refuse to deliver goods against local currency, thus bringing about a complete break-down in the supply of food and other essentials to the populations of these areas. We did not wish to bankrupt or destroy the currency of friendly countries through which we operated by flooding the areas with dollars.

These considerations made undesirable the use of dollar currency for procurement or for the pay of our troops in liberated or occupied areas.

RECOGNITION OF SOVEREIGNTY

Allied governments consistently insisted upon recognition of their sovereign right to determine not only rates of exchange but what was to be legal tender within their boundaries. For example, before the invasion of France, certain sovereign rights of the provisional French Government in exile were recognized. The United States Government recognized the right of the local government of the liberated area to establish the rate of exchange; and the French Provisional Government did exercise that right. Concurrently with setting the rate of exchange the French decided what was legal tender. In France it was determined that the legal tender should be the metropolitan franc and also the supplemental franc which the Allied forces brought in on D-day. The French Government assumed responsibility even for the supplemental francs brought in on D-day.

KEEPING DOLLARS FROM THE ENEMY

Another major factor in the determination to use foreign currencies rather than dollars was to keep dollars from the enemy. In a military operation as large as the invasion of Europe there was always the risk that large numbers of men and amounts of money might fall into the hands of the enemy. The Allied governments naturally did not welcome any action which would have assisted traitors to the Allied cause. As it filtered through unauthorized channels in liberated areas, dollar currency spent by the American armed forces might well have become a means by which traitors and fifth columnists could finance their operations or by which collaborationists could hide their assets and thus nullify the efforts of the Allies to recapture their illegal profits.

CONSIDERATIONS STEMMING FROM DESIRE TO PROTECT MEMBERS OF ARMED FORCES

The pay and allowances of the personnel of the armed forces of the United States are fixed by acts of Congress. The basic policies underlying all War and Navy Department actions relating to the financial problems of the troops overseas are simply and clearly defined.

First, every soldier, wherever stationed, must receive the full amount to which he is entitled by existing statutes.

Second, no soldier shall suffer financially because of assignment to duty in one overseas area as against another.

While serving abroad, the current and future financial interests of the American soldier were well safeguarded. All calculations affecting the total pay and allowances to which the soldier was entitled were made in United States dollars. The soldier was entirely free to determine for himself those portions of his earnings which he wished to allot, save, or spend. Whenever he desired, the soldier could, at any Army installation, convert such portion of his pay drawn in a foreign currency, which proved excess to his needs, back into dollars at the same rate at which the pay was drawn. This contributed in large measure to his peace of mind and effectiveness as a combat soldier. By far the most important benefit, however, from the soldier's point of view, derived from the War Department policy of foreign currency reconversion to dollars at a protected rate, was the facility of transmitting funds to any person, bank, or agency in the United States on a moment's notice. Numerous family crises were averted or solved by this administration provision.

In war the paramount factor is the morale of troops. An important element in that morale is assuring troops equitable purchasing power for their money. This was recognized by the Congress itself (in consideration of Public Law 554, approved December 23, 1944). The Senate Committee on Banking and Currency stated: "The aim of all agencies considered [it] of paramount importance to provide means whereby the morale of personnel serving abroad will not be disturbed because of fluctuations in foreign exchange," and added that "protection is afforded only when personnel receiving such foreign currencies as pay can exchange them without loss for United States currency or the currency of yet another country to which they may be proceeding under military orders."

PLANNING FOR INVASION OF EUROPE

Our decision to invade Europe was one of the most momentous in the history of our Nation. Every phase of the operation, both military and administrative, presented problems of enormous import and complexity. The currency problems were no exception. For security reasons alone, the problem of obtaining suitable legal tender well ahead of the attack for disbursing and procuring officers and for the individual troops participating in operations shrouded in military secrecy, was tremendous. Even if otherwise possible, it was considered unsafe to approach most "governments in exile," as demands for specific quantities and specified delivery dates would have provided invaluable data to unfriendly persons.

In order to be prepared for any eventuality in Germany, including a situation in which inadequate supplies for reichsmark currency would be available to the combined military forces, due, for example, to a scorched-earth policy on the part of the retreating enemy, a supply of supplemental legal tender currency similar to that known to the local population was imperative.

POLICIES WITH RESPECT TO GERMANY

With respect to Germany, the United States and British Governments desired the Soviet Government to use the same Allied Military German currency as that used by the combined US-UK military authorities, as part of the plan to treat Germany as an economic whole. To agree to the Russians using a different currency would have constituted an agreement in advance to what actually happened, the division of Germany into four airtight compartments. As you know, this result was never intended and its consequences which have so gravely hurt our occupation in Germany were a result assiduously to be avoided.

NEGOTIATIONS WITH THE SOVIETS

My information on this point is as follows: A combined US-UK decision was taken early in 1944 that a German mark currency would be used by the combined military forces for expenditures in Germany. As was done in preparation for invasions of other areas where scarcity of currencies might exist, such as in the case of the military lira used by the combined military forces in Italy, Allied Military marks were printed for use in Germany. Because we had the facilities, the printing was done in the United States.

Negotiations were undertaken with the Soviet authorities in Washington for the purpose of assuring that the Soviet forces would use the same mark currency. The

Soviet authorities agreed to use a German mark currency of the same design as that which would be used by the United States and British forces in Germany. However, the Soviets refused the offer of the US-UK authorities to furnish the Soviets with adequate supplies of Allied Military mark currency, and demanded that facilities be made available to them from which they could prepare their own supplies of Allied Military marks. Negotiations extended over several months. On April 8, 1944, the Russian Government sent a note to the United States stating that if the plates were not delivered to the Russians, the Soviet Government would be compelled to prepare independently military marks for Germany of its own pattern.

The British Government advised this Government that the use of a Russian-produced mark currency distinct from that used by the United States and the British would be prejudicial, and agreed that the Russians should be given the plates from which the currency was printed. After due consideration, the United States Government agreed to make the plates available to the Russians, and this was done. On April 18, 1944, the Soviet Ambassador was furnished with glass negatives and positives of plates for the use of the Soviet Government in the printing of Allied military marks, together with technical information on inks, paper, and other elements of the printing procedure.

The only agreement or understanding reached between the United States Government, the British Government, and the government of the Union of Soviet Socialist Republics was the general understanding that all three powers would use Allied military marks and no other currency as a supplement to the indgenous German mark currency. The Allied military marks were made legal tender in the national economy without distinction from the reichsmark and were interchangeable at the rate of one Allied military mark for one reichsmark. This rule, however, was applicable only to the German economy, and the armed forces did not convert reichsmarks into dollars.

The policy adopted by the United States Armed Forces for converting Allied military marks into dollars for authorized personnel was a policy adopted unilaterally by the United States Government. It was no different from the policy prevailing in all overseas countries where local curency was used.

There was and is no obligation on the part of the United States or other occupying powers to redeem Allied military marks. The first quadripartite agreement with reference to this matter was entered into on September 20, 1945, and provided assurance that the German Government would redeem this currency. Moreover, provision can be made in the Treaty of Peace to provide for the redemption of any of this currency still held by us.

THE BLACK MARKET

United States troops, in the main, were stationed in overseas areas where the local economy was severely damaged by the war. This damage resulted in placing vast quantities of local cash currency in the hands of the local population with virtually no goods and commodities available at wholesale or retail levels. Consequently, the temptation to sell post-exchange articles and items of individual equipment was great; money meant nothing to the native population; cigarettes, candy, soap, and ordinary personal items of comfort claimed high prices. The American soldier stationed abroad quickly found that his personal equipment, many post-exchange items and goods sent to him from the United States were more useful as a medium of exchange than the local currencies themselves. Moreover, many members of the Military Establishment found that this extra-legal trading of goods with local citizens or members of other armed forces and the subsequent conversion of local currencies back into dollars at Army post offices and finance offices provided handsome profits.

I will give two common illustrations of the manner in which these accumulations accrued. An American soldier sold an article from the PX or an item of personal or governmental equipment to members of other Allied Forces for Allied military marks at a considerable profit and converted the marks excess to his personal needs into dollars for purchase of war bonds or deposit in savings account or remittance home. Another typical transaction would be one in which a civilian employee who might be a native of a liberated country and who was authorized to make purchases in the PX or quartermaster commissary, made such purchases within the ration limits imposed, and the PX or the quartermaster converted the foreign currency so received into dollars through the Army finance offices.

ADMINISTRATION OF CONTROLS

The difficulties of imposing effective, individual administrative controls strictly limiting the reconversion of local currency to the amount acquired by each man through authorized channels were very great. There were approximately three and one-half million men in the European and Mediterranean theaters, spread over more than 15 countries and utilizing as many different currencies. There were almost 1,000,000 men in Japan and the Far East. During this period there were over 40 different currencies which were eligible for conversion at armed forces finance offices at specified rates.

At an early date the accumulation of foreign currencies in Army accounts was a problem which received serious attention. The foreign currency controls in effect at the beginning of the war worked very satisfactorily for a period of almost 2 years. Throughout the North African campaign and the subsequent Sicilian and Italian campaigns excess remittances were practically nonexistent. This was no doubt due in part to the fact that there was a greater quantity of goods which could be purchased by the soldier for his use and the prices for such goods were reasonable. The soldier accordingly spent his money and did not engage in extensive barter transactions. With the invasion of northwest Europe a quite different situation was presented. There was a great scarcity of consumer goods, a great abundance of local currency in the hands of the civilian population and a great demand for goods which the soldiers could obtain from Army sources. Even so, it was not until troops had obtained a more or less static position following VE-day that the accumulations of excess holdings of foreign currencies took on serious proportions. When it started, however, it snowballed. Troops with large accumulations of pay earned during periods of heavy fighting for the first time had a real opportunity to spend their money. Then they found in the occupied areas particularly that they were unable to obtain desirable goods for their money. Thus in many cases resort was had to barter transactions with the soldiers obtaining foreign currencies instead of goods which currencies were converted to dollars and remitted home or put in the form of savings or war bonds.

As long as foreign currency was converted into dollars the only truly effective control had to be based on control over the individual's transactions in foreign currencies. With the large numbers of personnel engaged in these operations (over 3,500,000 in European and the Mediterranean theaters) it was not administratively feasible to effect precise administrative controls over individuals. Accordingly, at the outset the controls were of a quantitative nature and they became successfully more refined and more stringent in respect of the individual as rapidly as the military situation and the personnel available to administer such controls permitted.

The controls exercised through the early redeployment period were of this nature: each remittance made by, or conversion made for, military personnel was scrutinized by unit commanders or unit personnel officers. Unusually large amounts were investigated prior to allowing them to be converted into United States dollar instruments. Many such conversions were denied, and in certain cases the individuals were prosecuted where there was evidence that the currency had been obtained in black-market transactions or illegally.

REDEPLOYMENT AND DEMOBILIZATION

During fiscal year 1946 in the European and Mediterranean theaters, and from August 15, 1945, to June 30, 1946, the Pacific theater, the Army and Navy passed through the redeployment and demobilization phase of World War II. At the termination of hostilities in Europe, troop redeployment began from the European and Mediterranean theaters to the Pacific. Some was direct and some was by staging through the United States. Later, troops were returned to the United States from all over the world. Currency wise, this involved redemption of foreign currencies held by our soldiers in one area for dollars or dollar instruments or exchange into foreign currencies of another country or area. Millions of dollars' worth of foreign currencies were so converted, with the result that large quantities of foreign currencies were accumulated by the Army from its personnel as well as other authorized civilians and attached Allied military personnel, and from other sources. There were as many as 300,000 authorized personnel disbursements to whom were not reflected in Army accounts nor under Army control but for whom the Army acted as the banker in the field and for whom the Army provided PX, Quartermaster commissary sales, and other similar services. This factor alone accounted for a very substantial accumulation of foreign currencies.

"Authorized" personnel leaving the theaters presented for reconversion all of the foreign currency held by them at that time. The amounts presented for exchange represented in many instances, accumulations of many months' pay and allowances. On a quantitative basis, large amounts were to be expected, due to the fact that soldiers leaving the theaters were turning in their holdings prior to their return to the United States. No means existed of distinguishing currency properly acquired from that illegally acquired.

When the unusually large accumulations were noted, the European theater commander effected a more stringent control than he had previously placed in effect. The new revised controls applied to all Army and Navy personnel and to all civilian personnel in and under the military establishment. These controls prohibited any individual from transmitting funds to any point outside the theater in a single calendar month in any amount equal to or amounts aggregating a sum in excess of the sender's unencumbered pay plus 10 percent.

Such controls added to the already overburdened administration of units overseas, and were effected only after full deliberation and consideration by the authorities. However, the rapid and full-scale redeployment gave ample opportunity for clerical mistakes, negligence and willful fraud. Inexperienced fiscal replacements from the United States were not equipped readily to search for and detect loopholes in the existing currency exchange controls.

THE CURRENCY EXCHANGE CONTROL BOOK

The European theater commanders continued strenuous study on the problem and in November 1945 placed Currency Exchange Control Books into effect in the European theater. A similar procedure was effected in February 1946 in the Mediterranean areas. The pay and allowances drawn by individuals overseas were recorded in this book.

As foreign currency was used, deductions were made in the book. The principle applied in this type of control limited the amount of foreign currency any one person could convert into dollars to the amount he had originally received as pay and allowances from the Army. Although not perfect, this method served to reduce the accumulation of currencies.

THE MILITARY PAYMENT CERTIFICATE

As a final control measure, the military payment certificate was introduced in Japan in July 1946. It was instituted in September of 1946 in Europe, the delay there being occasioned by the time it took to print the necessary currency. The military payment certificate is a medium, denominated in dollars, for use within the military establishment only. Its introduction was preceded by intensive study on the part of all four departments, since the concept was entirely new. With such adoption, the armed services no longer permit the conversion of foreign currencies by their disbursing officers and no further acquisitions of foreign currencies are made.

OUR POSITION MADE

As a result of these financial operations in some 75 different foreign currencies throughout the world, the Army and Navy found themselves, following the combat and redeployment phases of World War II, with the long positions in foreign currencies which I have mentioned. Through financial settlements already completed, or presently in the process of completion with certain of the liberated countries involved, the United States armed forces have been reimbursed for the full dollar equivalent of their foreign currencies held in our official accounts. In the case of Germany and Japan, where there is no government which can reimburse us for the currencies we hold, we are disposing of the currencies through normal legal expenditures by official and quasi-official American agencies, and through the normal expenditures of American individuals presently in these countries. The present calculation by the War and Navy Departments, although at this stage an estimate, is that we will have disposed of our holdings of German marks and Japanese yen, which show a total debit balance of approximately $160,000,000 by the end of 1948.

EXTENSION OF REMARKS

Mr. RANKIN. Mr. Speaker, I ask unanimous consent that in revising and extending my remarks I may include another letter written by Mr. Binford on the same subject.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDING VETERANS' PREFERENCE ACT OF 1944

Mr. ALLEN of Illinois. Mr. Speaker, I call up House Resolution 231 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 1389) to amend the Veterans' Preference Act of 1944. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.

Mr. ALLEN of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. SABATH] and yield myself such time as I may require.

Mr. Speaker, this is a general rule, merely providing consideration of, and 1 hour of general debate on H. R. 1389, a bill to amend the Veterans' Preference Act of 1944. Section 2 of that act provides preference in Government employment for persons who served on active duty in any branch of the armed forces of the United States—for which a campaign badge has been authorized. This wording leaves some question as to whether the Coast Guard reservists are eligible for preference under the law.

There are some 70,000 of these temporary Coast Guard reservists who performed wonderful service to our country during the recent war. As was pointed out by the Post Office and Civil Service Committee when reporting this bill, the country owes a debt of gratitude to these men, but they are not to be classed as ex-servicemen, who were actually uprooted from their civilian occupations and subjected to the rigors of full-time military training and combat. It is to the latter group that Congress intended to provide employment preference in the Government service.

This bill defines the term "active duty" as "meaning active full-time paid duty."

Temporary Coast Guard Reservists were volunteers who served several hours 1 or 2 nights a week. Therefore, they would not be eligible for veterans' preference under the definition of "active duty" in this bill.

Mr. Speaker, I am for this rule. I do not believe there is any question at all that it is in order to give the men who actively served in the armed forces of the United States this preference to which they are so justly entitled.

Mr. SABATH. Mr. Speaker, I feel that this rule makes in order a bill amending the Veterans' Preference Act which is fair and just. It is approved and recommended by the Judge Advocate General of the Navy and the Civil Service Commission. Consequently, I have no opposition to it, nor do I wish to take up any time against the rule. I think the rule should be adopted and the bill passed.

Mr. ALLEN of Illinois. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. REES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 1389) to amend the Veterans' Preference Act of 1944.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 1389, with Mr. KEEFE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. REES. Mr. Chairman, this bill, H. R. 1389, provides for an amendment to section 2 of the Veterans' Preference Act of 1944 by adding a proviso at the end thereof which the committee believes clarifies congressional intent regarding those ex-servicemen who are entitled to veterans' preference. The objective of the bill is to define the words "active duty in any branch of the armed forces of the United States" by providing that active duty shall mean active full-time duty with military pay and allowances in any branch of the armed forces during any way or in any campaign or in any expedition for which a campaign badge has been authorized.

The bill is recommended by unanimous agreement of the House Committee on Post Office and Civil Service and supported by the Civil Service Commission and by the American Legion, the Veterans of Foreign Wars, Disabled American Veterans, American Veterans of World War II, and American Veterans Committee. It also has the support of a number of other organizations.

The Navy Department and War Department representatives submitted reports favoring the enactment of this bill. Opposition to the bill was expressed by the Coast Guard League, an organization composed largely of former members of the Temporary Coast Guard Reserve. This group pointed out that the bill would exclude temporary Coast Guard reservists from the benefits of veterans' preference.

The committee is fully aware of the courageous and patriotic services rendered by the members of the Temporary Coast Guard Reserve, which worked in addition to the regular civilian duties of such Reservists. The committee did not feel, however, that it was the intention of Congress to include Temporary Coast Guard Reservists under the provisions of the Veterans' Preference Act, because they did not serve in the armed forces on a full-time active-duty basis with military pay and allowances. These men were employed by the Government and did render certain services of importance during their employment in Government service. There is no question about their having performed a very worthwhile service. There are about 70,000 in the group. Some rendered more service than others, but it should be understood that they are all very fine, patriotic men. However, the question is whether or not Congress in the Veterans' Preference Act intended that this preference should go to any other group except those included in the definition above described. I am informed there are a comparatively few of these men who did wear uniforms.

Under a decision rendered by a Federal court, which, I am informed, was not unanimous, the court decided in favor of a group of these men who appealed from a decision of the Civil Service Commission. The court having determined that under the language of the act it was believed that the particular Temporary Reservists who appealed were entitled to such consideration.

As I stated a moment ago, the services rendered by these men is appreciated. If, however, they are to be included, then

additional groups should likewise be entitled to similar consideration. There are many others who did render valiant service during the war, such as ambulance drivers, Red Cross workers, and a good many others, who are really entitled to a lot of credit and consideration.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield.

Mr. HAND. I believe none of us have any objection to this bill. I do not think the majority of the Coast Guard Reservists have any objection, but I want the gentleman's assurance, if I may have it, that this bill would not prevent a proper recognition by the Congress of the fact that these men have served in the armed forces of the United States, which is a recognition they earnestly desire. A bill for that purpose is now pending before our Committee on Merchant Marine and Fisheries.

Mr. REES. I am sure of that. The only thing that we are dealing with here is veterans' preference.

Mr. HAND. That is veterans' preference under the act of 1944.

Mr. REES. That is correct. I agree with the gentleman that they did render valiant service and are entitled to much consideration for so doing.

Mr. HAND. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. REES] has expired.

Mr. REES. Mr. Chairman, I yield myself two additional minutes.

Mr. McDONOUGH. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from California.

Mr. McDONOUGH. Did the committee consider the position of the Filipino soldiers who served in the United States Army, who gave valiant service in the Philippine Islands, which have since been declared an independent nation? In what position would that leave them? Would they be denied consideration under the adoption of this legislation?

Mr. REES. This legislation does not affect that group at all.

Mr. Chairman, if there are no further questions, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back 1 minute.

Mr. ANDERSON of California. Mr. Chairman, it is apparent to me that there is considerable confusion and misunderstanding concerning the military status of former temporary members of the Coast Guard Reserve who served on active military duty, protecting our harbors and shores from submarine attack and preventing sabotage of our docks and shore installations. I want to give a brief history of this component of the armed forces, so that the issue on veterans' preference which is before the House today may be voted upon with full knowledge of the facts. In 1941, the Congress enacted the Coast Guard Auxiliary and Reserve Act which authorized the Temporary Coast Guard Reserve as a military component of the armed forces. This act also provided for the Coast Guard Auxiliary, a civilian organization in contrast to the Temporary Reserve which is a military component. Admiral Waesche, Commandant of the Coast Guard, testified before the Merchant Marine and Fisheries Committee on January 28, 1941, that "the members who are brought in as temporary Reservists, who are also military in every respect, will be brought into the military service for duty in a particular locality." This act provided that temporary members of the Reserve could be enrolled for full-time or part-time intermittent duty, with or without pay.

Operating as a part of the Navy during the war, the Temporary Reserve in the Coast Guard was activated by the Commandant of the Coast Guard with the approval of the Secretary of the Navy and the Secretary of the Treasury. These Reservists volunteered to serve a minimum of 12 hours per week, and were subject to full-time active duty at the discretion of the Commandant. Some served 2 and 3 years full time active duty. All volunteered for the duration. They agreed to serve without pay, and consequently were not subject to transfer without their consent. These men were given physical examinations by the United States Public Health Service. They were trained and had to pass qualifying examinations before they were taken into the service.

As authorized by Congress, the Temporary Reserve of the Coast Guard was recognized as a component of the armed forces. On April 4, 1944, in Circular Letter 4145, the Civil Service Commission held such honorably separated Reservists as eligible for veterans' preference. On April 11, 1944, the Judge Advocate General of the Navy, in an opinion approved by Secretary Knox, stated that these Reservists were undoubtedly members of the armed forces. On July 15, 1944, the Secretary of the Navy held that members of the Coast Guard Reserve—temporary—are members of the armed forces of the United States within the meaning of the servicemen's voting law. Under date of February 7, 1944, the Acting Secretary of the Navy ruled that members of this Reserve component are considered to be members of a naval or military organization eligible for expeditious naturalization under the Nationality Act of 1940. What greater gift has this country to offer? In June 1944 the United States District Court of the Eastern District of Pennsylvania in the case of *Brown* v. *Cain* (56 F. Supp. 56) held that a temporary member of the Coast Guard Reserve was amenable only to a naval court martial for an alleged homicide which took place during a tour of duty, on the ground that he was a member of the armed forces of the United States. These Reservists were held to have served on active duty in the armed forces of the United States in the present war and entitled to the World War II Victory Medal authorized by act of Congress July 6, 1945.

Officers in this Reserve component took the identical oath administered to regular members of the Coast Guard. The oath of the enlisted men was likewise a regular military oath. It read as follows:

> I do solemnly swear that I will bear true faith and allegiance to the United States of America and that I will serve them honestly against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the orders of officers appointed over me according to the laws and regulations for the government of the United States Coast Guard.

This oath bound them to serve for the duration of the war.

Those men taking this oath were required to perform the same duty as any other member of the Coast Guard, subject to the full penalties of court martial. They could be, and were, ordered to duty to shoot and be shot at. They performed the same duty, underwent the same hazards and were subject to the same military command as other members of the Coast Guard with whom they served. It is not conceivable that an officer of this Reserve component would not be on military duty when his entire crew under him, as was often the case, was composed of regular members of the Coast Guard who were on active military duty. Many of these men were injured in the course of their military duties, and more than 100 of them lost their lives. These Reservists are distinguishable from civilian groups who performed hazardous duty during the war. They took a full military oath and were subject to full military discipline and could be ordered by military command to undertake any assignment regardless of hazard.

There can be no question that they served in the armed forces on active duty in World War II. Under existing law, any serviceman who served on active duty in the armed forces during any war, and was honorably separated is entitled to veterans' preference. Preference is granted even though that service may have been for so short a time as 1 day. The bill before the House proposes a new definition for the term "active duty." Temporary members of the Coast Guard Reserve served far beyond the minimum time required under the present law. This amendment will take away from one group of servicemen benefits which are granted to other servicemen who may have actually given less service to their country. In addition, the proposed amendment can be interpreted to deny preference rights to numerous other groups of veterans. At the very least, temporary members of the Coast Guard Reserve were limited-service veterans. Where other veterans were in limited service category by reason of physical limitations, temporary members of this Reserve component were limited as to the place of their duty in conformity with act of Congress and prescription of the Commandant of the Coast Guard.

I do not believe that we should adopt language of the nature proposed in this amendment which carries the threat to many thousands of ex-servicemen merely to reach about 2,000 former Coast Guard Reservists out of the 70,000 men and women who were temporary members in the Coast Guard Reserve. Two

thousand is probably the maximum number that will ever be interested in Government employment because a large percentage of the remainder are World War I veterans already entitled to preference, and business and professional men who are established in their own private enterprises.

Mr. ELLSWORTH. Mr. Chairman, this bill is probably without precedent in the history of veterans' legislation. It proposes to take away from one group of veterans of the armed forces of World War II a benefit they are now entitled to under the law, a benefit promised to them prior to their voluntary service in the armed forces, and a benefit which vested in them by reason of their active-duty military service during World War II. It proposes to deprive the widows of those men who died in line of duty of their veterans' preference rights. It discards the equity of a long-established rule for veterans' preference and proposes to substitute for it a new rule or standard which is subject to numerous interpretations which may spell grief to hundreds of thousands of veterans who now feel secure in their veterans' preferance rights.

This bill, H. R. 1389, is directed at those who served as temporary members of the United States Coast Guard Reserve, who guarded our harbors and docks, did antisubmarine patrol off our shores, and protected important military and industrial installations along the shores of our rivers and bays.

In 1941, Congress enacted the Coast Guard Reserve and Auxiliary Act. This act specifically authorized this Reserve component as a part of our armed forces. The members of this Reserve bore arms, were subject to all the laws, regulations, and military discipline of the Coast Guard. They volunteered for duty for the duration of the war, served part-time or full-time duty at the discretion of military command. They performed the same duties, and took the same oath as the other members of the regular Coast Guard with whom they served. Having faithfully performed the active military duty required of them, they were, only after VJ-day, honorably separated from the service the same as any other member of the armed forces of the United States.

The Civil Service Commission issued orders granting veterans' preference to honorably separated members of the Reserve component before the Veterans' Preference Act of 1944 was passed. The Commission issued similar orders after the act was passed. But wholly in error and without foundation in law, the Commission later denied preference to these veterans. The United States District Court and the United States Court of Appeals for the District of Columbia have both so held in decisions handed down.

The Civil Service Commission is now coming to Congress and requesting legislation to perpetuate their error by the enactment of this amendment. This is their bill, H. R. 1389. They plead that it was not the intent of Congress that the members of this Reserve component of the Coast Guard be entitled to preference. The present law states that anyone who served on active duty in any branch of the armed forces in any war or in any campaign and has been honorably separated therefrom is entitled to veterans' preference. Hon. Joe Starnes, author of the bill enacted as the Veterans' Preference Act of 1944, in testifying before the Senate Civil Service Committee stated the purpose and intent of the act clearly. Concerning preference he said:

> It is a reward to a man for patriotic duties well performed; it encourages our young men and women to serve their country in an hour of need; and it makes them feel, when they have given their all or offered to give their all in defense of this country and its institutions, that a grateful country will recognize their sacrifice and service when peace comes by giving them preference for service in various capacities with their Government.

It was the intent of Congress that everyone who took the oath placing himself under military command, regardless of where he served, or what kind of duty performed, be entitled to preference on being honorably separated from the service. This act gives preference to the widows of men who lost their lives directly or indirectly in the performance of their military duties.

It is difficult to see how the Civil Service Commission can question the plain meaning of the law or raise the question of intent of Congress. The law was designed to cover every man in the armed forces. Is the Commission in doubt that Congress meant that all widows should be treated alike? Certainly Congress did not intend to provide veterans' preference to the widows of some men killed on active duty and not provide preference for the widows of other men who gave their lives on active duty. What difference whether the widow be one whose husband served as a temporary member of the Coast Guard Reserve or in any other branch of the armed forces? The husband is just as dead in each case. Each lost his life in carrying out orders of a military command. The widow is faced with the same problems in each case. Where is there any basis for distinction? Does it matter whether the husband lost his life on his first day of active duty or at the end of the fifth year? Does it matter whether he served without pay, received a private's pay, or a colonel's pay? The loss is the same and every widow stands equally in her loss. Yet this amendment proposes that one widow may still have preference but another widow may not. Is the Civil Service Commission trying to suggest to Congress that it intended to enact such an unreasonable and unfair law? That is what this amendment they have brought up here for your approval will do. This is a question of American justice and moral conscience. If you believe that Congress intended that the widows of all veterans are to be treated the same because of their loss and hardship, then there should not be a single vote in this House for this amendment.

That is not all that this amendment will do. It will bring the preference rights of hundreds of thousands of other servicemen into jeopardy. In view of the erroneous interpretation placed by the Commission on the present law, it is difficult to imagine what may happen to veterans' preference rights under the proposed amendment. This new definition requires the performance of active full-time duty with military pay and allowances. Consider for a moment how this can be interpreted. Were those men who were released from service to return to our factories and farms as essential workers on full-time active duty? What of those men who were honorably separated on their own request for hardship reasons? What about those men who were in limited-duty status? They were not physically able to perform full general military duty. Do they qualify under the definition? Then there are those men who were a. w. o. l. for a few hours or days. Were they on full-time duty? They were hardly on full-time active duty when they were in violation of orders. Many servicemen were under disciplinary action and held in the brig or guardhouse but later honorably discharged. It is difficult to see how the Commission could fail to rule these veterans out of their preference rights. When a serviceman is in prison he can hardly be on full-time active duty. And this same man may fail to meet the test in another respect—that of military pay. He may have had his pay denied to him while being disciplined. The Commission can disqualify him on that ground if it chooses. Thus a soldier who may have been in the guardhouse for a minor infraction and later served 5 years, with decorations and citations awarded, could be denied preference while another soldier who served but a single day would be eligible for preference. Does this represent fairness and equity to two honorably separated veterans? Yet that is what the Civil Service Commission is asking Congress to approve.

Look at the amendment again. It requires military pay. Most of the members of this Coast Guard component excluded by this amendment served without military pay. Are we to use the language of this amendment and say to all patriotic Americans, "You must be paid before you can serve your country in time of war"? A majority of these temporary members of the Coast Guard Reserve were businessmen, lawyers, doctors, and professional men prominent in their communities. Many were servicemen of other wars. This amendment says in effect that their service is less honorable and not worthy of the recognition given the man who was paid. These men were all volunteers. They were honorable citizens. Communist veterans who received military pay will still be eligible for preference, but under this amendment, loyal Americans and Reservists would not be eligible. What strange devices and reasoning will we have to resort to under this amendment to determine eligibility? This bill can undermine the whole structure of veterans' preference. The amendment is a quibbling subterfuge for justice. It is not conceived in good conscience. This

amendment is a Pandora's box of confusion which will plague the Congress, the Civil Service Commission and the veteran. I do not believe that it represents any concept of fairness and justice of this Congress or the intent of any previous Congress.

The present law is clear, simple, and equitable. It stands on a basic principle which is tested by time. It is a principle that veterans organizations have supported vigorously for years. This amendment solves no problem but will multiply them. It should be dedefeated.

Mr. MURRAY of Tennessee. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. LYLE].

Mr. LYLE. Mr. Chairman, I need not take 5 minutes unless there is some controversy or some questions to be asked.

The committee felt it was absolutely necessary to bring in this bill. It is no reflection upon the valuable service of these gentlemen who served in temporary capacities. However, they were never separated from their civilian jobs and consequently were not, in our judgment, entitled to veterans' preference, as the Congress originally intended. We felt it was necessary to bring this bill before you, and it is here for your consideration.

Unless there are some questions, I yield back the remainder of my time, Mr. Chairman.

The CHAIRMAN. The gentleman yields back 4 minutes.

Mr. MURRAY of Tennessee. Mr. Chairman, I have no further requests for time.

Mr. REES. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That section 2 of the Veterans' Preference Act of 1944, approved June 27, 1944, is hereby amended by striking out the period at the end of such section and inserting a colon and the following language: "*Provided*, That 'active duty in any branch of the armed forces of the United States' shall mean active full time paid duty in any branch of the armed forces during any war or in any campaign or expedition (for which a campaign badge has been authorized) and have been separated therefrom under honorable conditions."

With the following committee amendment:

Strike out all after the enacting clause and insert "That section 2 of the Veterans' Preference Act of 1944, approved June 27, 1944, is hereby amended by striking out the period at the end of such section and inserting a colon and the following language: '*Provided*, That when used in this section the term "active duty in any branch of the armed forces of the United States" shall mean active full-time duty with military pay and allowances in any branch of the armed forces during any war or in any campaign or expedition (for which a campaign badge has been authorized).'"

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KEEFE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 1389) to amend the Veterans' Preference Act of 1944, pursuant to House Resolution 231, he reported the same back to the House with an amendment adopted in Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. ROONEY asked and was given permission to extend his remarks in the RECORD in two instances, in one to include two editorials from the Brooklyn Eagle and in the other an analysis of the Taft-Hartley bill by the minority leader of the New York State Assembly.

Mr. RANKIN asked and was given permission to extend his remarks in the RECORD and include an editorial from the Commercial Appeal of Memphis, Tenn., on the so-called Southern Conference on Human Welfare.

Mr. SABATH asked and was given permission to revise and extend his remarks and include two newspaper articles.

Mr. NORBLAD asked and was given permission to extend his remarks in the Appendix of the RECORD and include an editorial.

RULE MAKING IN ORDER CONSIDERATION OF H. R. 966

Mr. ALLEN of Illinois. Mr. Speaker, I call up House Resolution 243, providing for the consideration of the bill H. R. 966, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 966) to amend section 14 of the Veterans' Preference Act of June 27, 1944 (58 Stat. 387). That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. ALLEN of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. Speaker, I yield myself such time as I may use.

The SPEAKER. The gentleman from Illinois is recognized.

Mr. ALLEN of Illinois. Mr. Speaker, this rule merely provides for the immediate consideration of H. R. 966, to amend the Veterans' Preference Act of June 27, 1944. In passing this Act, it was the intent of Congress to guarantee certain employment and retention preference for veterans on the Federal pay roll. It has recently been brought to the attention of Congress, however, that certain executive departments have interpreted the law to suit their convenience, and have thereby deprived veterans of some of the employment safeguards provided in the act.

The preference law provides that a veteran who is discharged, furloughed, or reduced in grade or salary, may appeal the action to the Civil Service Commission. After investigation and consideration of the evidence, the Civil Service Commission is required to submit its findings and recommendations to the proper administrative officer in the agency employing the veteran. Now it was the intent of Congress in establishing this procedure, that the agency would abide by the recommendations of the Civil Service Commission. Certain of the executive agencies have, in some cases, chosen to ignore the recommendations of the Civil Service Commission, however. This bill protects veterans from arbitrary administrative decisions by making the recommendations of the Civil Service Commission binding on the executive departments and agencies.

Mr. Speaker, this is an open rule. I do not believe there is any question but that honorably discharged veterans should have this preference in the matter of governmental employment.

Mr. SABATH. Mr. Speaker, again I favor the adoption of a rule. I am in favor of legislation that will aid veterans.

This bill has been approved by the committee and it was recommended by the President, by veterans' organizations, and by the Civil Service Commission.

This is the second bill in aid of veterans. This morning we had before the Committee on Rules two veterans' bills which will cost the Government $50,000,000 to $60,000,000. Action has been temporarily postponed because we felt that some provisions in both these bills should be corrected before the bills come before the House, though I am in favor of giving every aid possible to our deserving veterans.

I am informed that there are pending veterans' bills which would cost a total of fifty to sixty billion dollars. Perhaps some of the bills have merit notwithstanding the tremendous burden upon the Government due to the First and Second World Wars. However, instead of trying to bring about an adjustment of differences to preclude another war, we hear nearly every day reckless statements on the floor and by commentators who are trying to create more trouble and who would force us into another war. The aim of the Members of this House and the aim of the people of the country should be to eliminate all reckless and provocative charges and accusations that might tend to force us into war. We should attempt to bring about a lasting peace that the world needs and the people of this country demand. Consequently, I hope that instead of making these charges here, many of which, of course, are unjustified

and unwarranted and not based on fact, we will desist and try to devote ourselves to bringing about harmony and an adjustment of all differences, so that we may have that just and permanent peace for which the whole world is seeking and praying and looking, to which the people are entitled, and which I hope and have every reason to believe can be brought about by following the wise counsel of Secretary Marshall and General Eisenhower and other national leaders who realize that all differences can be adjusted.

Mr. Speaker, having no opposition to this rule, and in fact favoring its adoption, I shall use no more time.

Mr. ALLEN of Illinois. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

AMENDMENT TO SECTION 14 OF THE VETERANS' PREFERENCE ACT OF JUNE 27, 1944 (58 STAT. 387)

Mr. REES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 966) to amend section 14 of the Veterans' Preference Act of June 27, 1944—Fifty-eighth Statutes, page 387.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 966, with Mr. BARRETT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. REES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this is another measure to amend section 14 of the Veterans' Preference Act of 1944 and it has the unanimous approval of the Committee on the Post Office and Civil Service, the approval of the Civil Service Commission, and the approval of the veterans' organizations, the VFW, the American Legion, and the Disabled War Veterans. The bill was on the Consent Calendar but because of some little objection on the part of someone it was necessary to get a rule to bring it to the floor of the House for consideration and vote.

The bill provides, in substance, that where a veteran employed in Civil Service has been downgraded, dismissed, or otherwise in his judgment has not been treated fairly under the Veterans' Preference Act, and has appealed to the Civil Service Commission, which he has the right to do, and if the Civil Service Commission sustains the employee in his contention and believes he should be returned to his position wherever he was working in the Government, that the employing agency is required to take him back into the service in the position that he held before he was discharged, downgraded, or otherwise unfairly dealt with as provided under the Veterans' Preference Act, and sustained by the Civil Service Commission.

Under this bill it shall be mandatory for administrative officers in executive agencies of the Government to take such corrective action as the Commission finally recommends after an appeal is taken by a preference eligible from a decision of a department or agency, to discharge, suspend for more than 30 days, furlough without pay, or reduce in rank or compensation any such preference eligible.

Mr. BUCK. Will the gentleman yield?

Mr. REES. I yield to the distinguished gentleman from New York.

Mr. BUCK. I am entirely in favor of this bill. I would like to ask the chairman of the committee if the committee has any plans for giving similar rights to nonveterans in the civil service who may be subjected to unjustifiable dismissals or downgrading?

Mr. REES. I will say to the gentleman that the committee presently has under consideration legislation dealing with that particular group. It has the problem under consideration, and it is a serious and an important one. But, it is one that is not dealt with in this particular legislation. This bill has to do with veterans only. I am in sympathy with what the gentleman has to say, and I think that in too many cases there has been, on the part of some agencies, a failure to follow the law and the rules and regulations thereunder with respect to downgrading of those employees in civil service. In far too many cases career employees are not receiving the consideration to which they are entitled. I hope to have something to say on that subject in the near future.

Mr. BUCK. I understand then that the committee has that problem under consideration.

Mr. REES. Yes. And let me say I appreciate the deep interest the gentleman from New York has taken on this problem.

This measure deals only with veterans and amends the Veterans' Preference Act. Let me assure the gentleman from New York the committee is mindful of the problem to which he directs our attention.

Mr. Chairman, I yield to the distinguished gentlewoman from New York [Mrs. ST. GEORGE], a member of our committee, such time as she may desire.

Mrs. ST. GEORGE. Mr. Chairman, this legislation is merely a clarification and a correction. It is doing justice to our ex-servicemen, which is something that we all want to do. It is going to make the task of the administrative officers in the executive departments easier because it clearly sets forth and enacts into law the President's thought in his letter of August 23, 1945, to the heads of the executive departments when he said: "It is my desire that the heads of all departments and agencies arrange to put into effect as promptly as possible the recommendations which the Civil Service Commission makes under section 14 of the Veterans' Preference Act of 1944." This legislation will strengthen the hands of the department heads so that they can make the Veterans' Preference Act work according to the original intention of the act. And it also gives the veteran a chance to appeal and submit evidence to the Civil Service Commission. In other words, it helps to make the Veterans' Preference Act a living and strong reality and not merely some high-sounding words without authority. It will greatly help the agencies and departments, who we know will welcome this amendment to the act of 1944.

Mr. Chairman, I am happy to know that another sound piece of veterans' legislation is going to pass this House unanimously today.

Mr. MURRAY of Tennessee. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. LYLE].

Mr. LYLE. Mr. Chairman, apparently there is no objection to this bill. It gives the power to the Civil Service Commission to enforce its rulings regarding veterans. I feel that it is very necessary legislation, and I am sure the committee will favor it by its adoption.

Mr. FORAND. Mr. Chairman, will the gentleman yield?

Mr. LYLE. I yield to the gentleman from Rhode Island.

Mr. FORAND. This, in other words, is a bill that would make it compulsory for the departments to reinstate an employee if the Civil Service Commission says that his rights have been violated.

Mr. LYLE. That is correct. The House originally gave the Civil Service Commission jurisdiction to review these matters but it failed to give them the power to enforce their rules and regulations. This gives them power.

Mr FORAND. And the result is that many who feel they have been treated unjustifiably, although the Civil Service Commission has said they were entitled to reinstatement, have never been reinstated.

Mr. LYLE. That is correct, in a few cases.

Mr. MURRAY of Tennessee. Mr. Chairman, I have no further requests for time on this side.

Mr. REES. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. TWYMAN].

Mr. TWYMAN. Mr. Chairman, there can be no opposition to this bill. It is perfectly clear that when the Veterans' Preference Act was written there was an imperfection which this bill intends to correct. There is no reflection whatsoever upon any Government agency in proposing this measure. The committee learned of many instances where, through lack of information about the purpose of the act, arbitrary decisions were made which worked to the disadvantage of veterans. This simply provides another step for the veteran to take in order to clarify his right under the Veterans' Preference Act. We expect, of course, that there will be no opposition on the part of the House.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That the first proviso of section 14 of the Veterans' Preference Act of 1944 (58 Stat. 387) is hereby amended to read as follows: "*Provided*, That such preference eligibles shall have the right to make a personal appearance, or an appearance through a designated representative, in accordance with such reasonable rules and regulations as may be issued by the Civil Service Commission; after investigation and consideration of the evidence submitted, the Civil Service Commission shall submit its findings and recommendations to the proper

administrative officer and send copies of the same to the appellant or to his designated representative, and it shall be mandatory for such administrative officer to take such corrective action as the Commission finally recommends."

With the following committee amendments:

Page 1, line 5, after "preference", strike out "eligibles" and insert "eligible."

Page 2, line 2, after "and", insert "shall."

The committee amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BARRETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 966) to amend section 14 of the Veterans' Preference Act of June 27, 1944 (58 Stat. 387), pursuant to House Resolution 243, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

MODIFICATION OF RAILROAD FINANCIAL STRUCTURES

Mr. BROWN of Ohio. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 246 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H. R. 2298) to amend the Interstate Commerce Act, as amended, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question it shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BROWN of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. SABATH], and now yield myself such time as I may use. Mr. Speaker, House Resolution 243 makes in order House Resolution 2298 from the Committee on Interstate and Foreign Commerce. The rule under this resolution as granted by the committee does waive points of order but it permits, of course any amendments to be considered under the 5-minute rule.

The bill concerns itself with railroad financial reorganizations and it permits or sets up a new procedure whereby railroads not in bankruptcy or receivership may under certain conditions with the approval—and I want to explain that—with the approval of the Interstate Commerce Commission, alter or modify their obligations, such as bonds, mortgages, indentures, and similar instruments, with the assent of the holders of 75 percent of such obligations.

However, before such permission can be granted, the Interstate Commerce Commission must make a finding which approves any such alteration or modification; and in that finding, ascertain and decide that the plan of reducing these obligations by it, is within the scope of the new section 20 (b); will be in the public interest; will be to the best interests of the carrier, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration, and will not be adverse to the interests of any creditor of the carrier not affected by such modification or alteration.

What it does, in simple language, is to permit a railroad which is in financial difficulty to escape the necessity and the heavy expense of going through bankruptcy or receivership proceedings, and, instead, if 75 percent of the security holders affected first vote or agree, the railroad may then go to the Interstate Commerce Commission where a hearing shall be held, where evidence shall be submitted to substantiate the need for this reorganization or this reduction in obligation or whatever you want to call it and then the Interstate Commerce Commission must find that this is for the benefit of that particular class of stockholders, bondholders, or security holders, or indenture holders, or whatever they may be called. The finding must be that it is for the benefit of the whole 100 percent. In addition thereto, will also in no way endanger the rights of other holders of other classes of indentures or stocks or bonds of that railroad.

If I have made myself clear, this legislation is merely to simplify the reorganization of the financial structure of railroads which find themselves in difficulties. The reorganization must be found by the Interstate Commerce Commission to be for the benefit of and for the welfare of the indenture holders who own the particular type of stock or bonds or mortgages of the railroad. Of course, they cannot even come before the Interstate Commerce Commission unless 75 percent of those holding the indentures ask that it be taken before the Commission.

As I understand this legislation, and I am sure a careful study of it will convince you of the same idea, no indenture holder, no bondholder, or no stockholder that may be affected by this legislation will lose anything as a result of following this procedure. Instead, his interests will be protected, because, instead of spending most of the money that may be derived from the reorganization plan, wasting it in bankruptcy proceedings, and in long involved legal action in receiverships, the money will go to the stock and bondholders. This simple way can be followed with the consent of the Interstate Commerce Commission to equally adjust values so as to give a market value to their stock above that which it would have if they were in bankruptcy and receivership.

I believe the Committee on Interstate and Foreign Commerce has done splendid work in bringing this bill before the Congress. They understand it in detail, I am sure, much better than I, but I am hoping that this rule will be adopted promptly and the committee may have an opportunity to give you more complete information on the measure.

Mr. KEATING. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield.

Mr. KEATING. I understand from the gentleman that this bill does not apply to any railroad now in receivership or now undergoing reorganization?

Mr. BROWN of Ohio. That is correct. Mr. Speaker, I reserve the remainder of my time.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] is recognized.

Mr. SABATH. Mr. Speaker, another rule is brought forth that permits legislation which is not in order, and consequently this rule waives points of order on many provisions that would otherwise be subject to a point of order.

If I could believe the gentleman from Ohio [Mr. BROWN] is correct, that it is for the interest of the stockholders and bondholders, who in good faith and upon the approval of the Interstate Commerce Commission have invested their savings, and it would be to their advantage and benefit, I naturally would support and ask that this rule be adopted.

I presume the rule will be adopted but I hope that when the Members are familiar with the provisions of this unfair bill they will at least adopt amendments to safeguard the rights and interests of the minority stock and bondholders. No one would object to eliminating the necessity of railroads going into bankruptcy or receivership. I will be the first to advocate legislation that will stop the outrageous proceedings and practices that have gone on for many, many years in this country on the part of the railroad manipulators. Later I will give you figures as to what some of these manipulators have done in fleecing bond and stockholders. This bill, if adopted, will permit 75 percent of the bond and stockholders, by petition, to ask the elimination of the interest of the other 25 percent of the stock and bondholders notwithstanding the provision in the mortgages which assures and guarantees the investors that the indentures and mortgages would not be changed in any way. This proposal gives these selfish interests the right to go before the Interstate Commerce Commission on the petition of 75 percent of the stock and bondholders and ask that the provision safeguarding the interests of the purchasers and investors be wiped out and that these manipulators have a free hand, and the right and the privilege to say to the 25 percent of the bondholders remaining: "You are out."

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The gentleman, I believe, should also point out that even though the 75 percent of these bond and mortgage holders pursue this formal proceeding there still must be a hearing before the Interstate Commerce Commission, and that Commission must find that the rights of the 25 percent will in no way be injured but will be protected and enhanced by the action proposed. I am sure the gentleman from Illinois does not believe that the Interstate Commerce Commission will go around trying to gyp any stockholder or mortgage holder.

Mr. SABATH. I wish I could feel that way, but when I think of what the Interstate Commerce Commission did in the Chicago, Milwaukee, St. Paul, & Pacific and the Chicago & Northwestern Railroad cases, where they wiped out thousands of stockholders and even some bondholders, I am doubtful.

Mr. BROWN of Ohio. Is the gentleman sure that that was not the action of the courts rather than the action of the Commission?

Mr. SABATH. No; the Interstate Commerce Commission rules on it.

Mr. BROWN of Ohio. The courts also entered into it.

Mr. SABATH. And they wiped out most of the stock and bondholders in the interest of the insiders, notwithstanding the fact that the railroads just about that time started to make tremendous profits, had great surpluses, and were not justified in forcing that legislation.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. In the cases that the gentleman has mentioned, while the Interstate Commerce Commission may have had some connection with those cases in their inception, is it not a fact that the decisions in these cases to which the gentleman has referred were made by the United States courts?

Mr. SABATH. The only jurisdiction the courts had was to approve or disapprove the findings, that is all.

Mr. BROWN of Ohio. Then the Federal courts did find that the Interstate Commerce Commission acted promptly and I presume by that the gentleman is criticizing both the Interstate Commerce Commission and the Federal courts.

Mr. SABATH. Yes; I do, because I find that our judges in many instances have been unfair to many of the bondholders, stockholders and holders of securities not only of the railroad companies but of other corporations as well, running into the millions of dollars, yes, billions of dollars.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Pennsylvania.

Mr. WALTER. When the gentleman referred to the surpluses that these railroads now have, I am sure he overlooked the fact that the interest on the bonds has been in default in all of these reorganizations for as long as 11 years and that if the defaulted interest was paid there would be no surplus.

Mr. SABATH. There was no reason why most of these railroads should not have paid their interest, because they had the money in the Treasury, as you yourself stated. I admit there might be some of the smaller railroads that did not make so much money, that did not take advantage of the Government, that did not take advantage of the public that are not in this position; however, most of the roads could have and should have been in the position to pay back the interest. They had the money and they were not justified, to my way of thinking, in depriving these thousands upon thousands of stockholders and shareholders who originally were assured by the Interstate Commerce Commission that these bonds and stocks were all right, "We approve them; you go ahead and buy them, part with your money; of course they are all right;" while a few years later it said: "There is too much watered stock, we shall have to eliminate the stock and securities that are held by many American investors."

Mr. Speaker, to my mind this is manifestly unfair and unjustifiable legislation giving an advantage to 75 percent of holders, who are the insiders. Most of the railroad stocks and bonds are controlled by the 75 percent of the holders, by the insiders, the 25 percent being held by outsiders, the general public, the widows, orphans, the estates, the people who in good faith put their money in railroad bonds and railroad securities. They will be told now: "Oh, well, now, the railroads are not making so much money, so you must be wiped out so that we can take care of those boys who are managing and controlling the railroads, who have effected the bankruptcy of many of the railroads heretofore."

Mr. Speaker, I wish the Members had time to study the history of our railroads and the manipulations from the time of Gould, Hill, Huntington, Vanderbilt, Mellen, and Harriman on down, and see how many millions and millions of dollars the people were shamefully relieved of, the people who in good faith invested their money, in many cases their all, in these railroad securities.

From 1879 to 1906, inclusive, James J. Hill and his associates personally profited to the amount of $407,325,000 in manipulation of Great Northern, while that company's treasury received only $181,875,000.

Again, the manipulations of the New York, New Haven & Hartford Railroad by Charles S. Mellen, one of the great destroyers of property, and his cohorts is still fresh in the minds of many here today. Mellen not only monopolized all transport facilities in New England, but stepped out into the newspaper field to get a voice to further his nefarious schemes of plunder. His destruction of that once great railroad and his unconscionable impoverishment of many deserving investors, including widows and orphans, entitles this man to a high place in the Hall of Shame.

The history of nearly all railroad reorganizations has been the taking away of the investments of stockholders and bondholders chiefly by chicanery, bribery and fraud perpetrated by the head officials of the roads with the connivance of investment bankers.

The overissue of railroad securities is still a common practice and a study of the financial set-up of the railroads today will show that they are loaded to the guards with the common stock, preferred stock, debentures, first, second, and consolidated mortgages, notes, and refunding certificates and, when the time is ripe, there is a reorganization.

I wish time would permit me to touch on the reorganizations and activities of those who 50, 60, and 70 years ago manipulated the stocks of the Southern Pacific, the New Haven, and other roads. Before the Pacific Railroad Commission in 1887 it was disclosed that the Southern Pacific expended over a period of years the sum of over $5,000,000 at Washington for imparting information to Congress, to the departments, or for some purpose of that character.

Congress certainly seems to be getting a lot of information on railroads today. I hope it is of the kind that will help to safeguard the investments of those who have invested their all and the little stockholders.

Now, I feel that the bill should be amended and I hope that it will be amended so that the endangered minority may be properly safeguarded. If the minority should be safeguarded, I would be perfectly happy. I am wholeheartedly in favor of any program or policy that will preclude the placing of these railroads in bankruptcy or receivership, because I know that these great judges in whom the gentleman from Ohio has so much confidence have held these bankruptcies and receiverships within their grasps, appointing a lot of their stooges and friends as receivers, with long-term tenures, and they have been mulcting those railroads and public utility companies. I know some jurisdictions wherein some of these cases have been pending for 10 or 12 years without any justification. So, naturally, I would be in favor if we would eliminate the bankruptcy proceedings, and that is the reason I favor the bill that my colleague the gentleman from Illinois [Mr. REED] advocated in the last session and which I hope he will bring up again, that will protect the minority stockholders and bondholders, and not only a few.

Mr. MACKINNON. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield for a question.

Mr. MACKINNON. Does the bill make the order of the Interstate Commerce Commission final or is an appeal allowed to the courts?

Mr. RABIN. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from New York.

Mr. RABIN. There is no appeal allowed to the court at all except for technical defects, patent defects. The bill provides in one of the last sections that the power of the Interstate Commerce Commission is plenary and exclusive.

Mr. SABATH. The gentleman from New York is right. No real appeal to the courts is permissible and the action of the Interstate Commerce Commission

is final. Even if an appeal to the courts would be permitted, what chance has a stockholder or a bondholder or a few stockholders or bondholders owning from 5 to 100 shares, should they engage a lawyer in trying to cope with railroad lawyers or the attorneys of the Interstate Commerce Commission.

Mr. WOLVERTON. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. WOLVERTON. In answer to the question as to whether the order made by the Interstate Commerce Commission is final in character without any opportunity of court review, I would say this: The order that is made by the Interstate Commerce Commission is subject to the same review in court as every other order that is made by the Interstate Commerce Commission; in other words, this bill being an amendment to the Interstate Commerce Act carries with it all of the review procedures that are provided in that act for all orders and actions by the Interstate Commerce Commission.

Mr. MACKINNON. Mr. Speaker, will the gentleman yield further?

Mr. SABATH. I yield.

Mr. MACKINNON. I wonder if the gentleman would elaborate on what review is allowed on existing orders of the Interstate Commerce Commission?

Mr. RABIN. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from New York.

Mr. RABIN. In direct answer to that question I will read the testimony of one of the Commissioners of the Interstate Commerce Commission, Mr. Mahaffie. He said:

> I should think that the litigation, unless we did something arbitrary, or unless the application were filed in a way that the corporation was not legally authorized to file it, or some defect that is patent—

And so forth. Then he goes on to say:

> It would be subject to litigation under the Urgent Deficiencies Act for a defect in the legal steps we have taken.

That is in the event that the Commission's decision is arbitrary.

But it does not call for court approval as to the fairness of the plan at all.

Mr. SABATH. I agree with the gentleman. He explained it fully.

Mr. MILLER of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Connecticut.

Mr. MILLER of Connecticut. I think it should be emphasized that this bill does not apply to railroad stock but only to the bonds. The stockholders can only be benefited, and certainly cannot be harmed, because it applies only to bonds.

Mr. SABATH. It applies to any indebtedness.

Mr. MILLER of Connecticut. No. That should be made clear. This is not the Reed bill. This does not apply to stock.

Mr. SABATH. I will read the bill, and I leave it to the Chairman whether that does not apply also to stock. It applies not only to bonds, but all certificates of indebtedness.

Mr. WOLVERTON. The bill as drawn does not apply to stocks.

Mr. SABATH. I am glad to hear that it does not apply to stocks.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Pennsylvania.

Mr. WALTER. May I ask the chairman of the committee what the language on page 3, line 9, means, "evidences of indebtedness"? Is not that broad enough to include common stock?

Mr. WOLVERTON. I do not think common stock has ever been considered as evidence of indebtedness, not even preferred stock, for the reason that it is dependent upon the granting of dividends, so that a stock is never considered as an evidence of indebtedness.

Mr. SABATH. I am under the impression that when the final ruling is issued it will apply also to some issues of stock.

I do not want to detain the House much longer. All I wish to say is this: Notwithstanding the opinion of some lawyers of the Interstate and Foreign Commerce Commission and some of the highly paid railroad lawyers, I am of the opinion that this bill is unconstitutional, and I want to bring that home to you again and again. Please remember what I said, namely, that this bill is bound to be held unconstitutional if some few of the unfortunate minority bondholders are able to get together and hire a good lawyer who will be able to cope with the railroad lawyers and the Interstate and Foreign Commerce Commission lawyers and present their cause in a proper way.

I quote, in part, from section 20b (1) of the bill. It says:

> It shall be lawful notwithstanding any mortgage, indenture, and deed of trust * * * for the carrier to alter or modify any provision of any class of bonds, notes, debentures, or other evidences of indebtedness.

In other words, regardless of the provisions of the original mortgage or trust, the Interstate Commerce Commission is authorized to act.

But listen to this proviso in the bill. I quote from it in part:

> The provisions of this section shall not apply to any equipment-trust certificates, which naturally were issued for the purpose of obtaining their rolling stock.

Yes; the interests of these equipment suppliers, who generally cooperate with the railroads, are safeguarded, but no such safeguard is provided for the well-meaning people who invest their earnings in these securities.

In view of this partly quoting of provisions of the bill, I feel that the court will be obliged to hold this act unconstitutional, because in the bill you state that regardless of what agreement I have with the railroad in buying its stock, that agreement does not count; it is eliminated; that guaranty to which I gave full credit is abrogated, and the railroad can and will be able to do as it pleases, with the sanction and approval of the Interstate Commerce Commission, that has done such a regrettable job on the four or five hundred thousand stockholders of the Chicago, Milwaukee, St. Paul & Pacific and the Chicago & North Western, most of whom are in my section of the country.

Mr. WOLVERTON. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. WOLVERTON. May I make this remark with reference to the statement made as to the constitutionality of the act? If I understood the gentleman correctly, he stated that he is of the opinion that railroad counsel and other lawyers have rendered opinions attacking the constitutionality of this proposal.

Mr. SABATH. No; I said that notwithstanding the opinion of the Interstate Commerce Commission attorneys and the railroad attorneys, who believe that it is constitutional, I am of the opinion, and other attorneys who are not directly interested are of the opinion, that it is not constitutional.

Mr. WOLVERTON. I have a great deal of respect for the gentleman's judgment on any matter to which he has given particular study, but in this particular matter may I say to the gentleman that the Committee on Interstate and Foreign Commerce had full hearings, and at no time either on this bill or on bills similar in character that have been introduced in the Senate on previous occasions has anyone doubted the constitutionality of this act. If the gentleman has an open mind upon it I shall be only too glad to supply him with cases that are so directly in point that, regardless of what his present opinion is, I am certain he will come to the same conclusion that other eminent counsel have, that there is no question about the constitutionality of this act.

Mr. SABATH. I feel that the able gentleman is sincere in believing that these lawyers are right, but I do know from past experience that, naturally, we always get from those that represent us an opinion which is favorable. That is the reason the lawyers give the Committee on Interstate and Foreign Commerce the opinion that they believe this will be held constitutional.

Mr. RABIN. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. RABIN. The chairman is correct when he says in the 1 day of hearing, because there was only 1 day of hearing, that no witness expressed doubt as to the constitutionality of the act, but in the discussion and before the report I expressed serious doubts as to its constitutionality, particularly in view of the fact that the railroads are solvent, that there is no court proceeding, that the bill does not provide for court approval, and that there is no pay-off or appraisal of minority dissenters' holdings.

Mr. SABATH. This would make it lawful that any express provision contained in any mortgage, indenture, deed of trust, or other instrument, notwithstanding the approval of the court, be invalidated and they could rule that these stockholders and bondholders shall be wiped out, notwithstanding the very definite provision in the instrument of mortgage.

I wonder whether the gentleman would go out and buy a mortgage from anyone and pay for it and later on have the mortgagor say, "Well, now, you know that is in there, but it should be eliminated. The guaranty and the assurance that were given to you when you bought this mortgage should not apply." I think it is manifestly unfair, unjustified, and unwarranted.

I have a right to my opinion, but, admittedly, I am not a constitutional lawyer, if you please, anyway, I hope I have a little horse sense, and I know what is right and what is just. If the judges would rule according to what is right and equity, and not be misled by these railroad lawyers who are invariably men of great ability drawing from twenty-five to fifty thousand dollars a year as against the lawyer who is engaged by some of these deserving bondholders who perhaps receives a salary or makes three or four thousand dollars a year and cannot always cope with these great lawyers for these great corporations, that would be well. That is the reason I am always fearful that the rank and file of these cases, 25 percent of the people who have invested millions of dollars of their money in these companies, will be ruthlessly wiped out and deprived of their investments.

Mr. WOLVERTON. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to the gentleman.

Mr. WOLVERTON. Mr. Speaker, I appreciate the courtesy that the gentleman has extended in yielding to me as frequently as he has. I have requested the gentleman to yield at this time in order that I might answer the statement made by the gentleman from New York [Mr. RABIN] with respect to the right of an individual to have an appraisal of the value of his stock, and that, in the absence of that, the act would be unconstitutional. I am surprised that he is not familiar with the fact that this bill is similar in every respect to the McLaughlin Act which was chapter 15 in the Chandler Act. That act, with a provision in it similar to this, was declared constitutional, and there was no provision in it for an appraisal of stock of dissenters.

Mr. RABIN. Was not that a court procedure? This is not.

Mr. SABATH. I have my own opinion as to judge-made law. I have more confidence in the laws that we make in Congress, even if they are not at all times in exactly the right direction, and even if they are not always exactly fair and just, than in a lot of the laws that are made by judges' rulings and followed in some of the cases to which you have referred.

When I came to Congress in 1907 it was generally recognized that the railroads controlled the State legislatures, helped to elect governors and, yes, even helped to elect Senators and Members of Congress. Of course, in the last 40 years the oil, steel, power, and manufacturing interests have followed the pattern set by these railroad magnates and manipulators. In the last few years the railroads' lobbyists have again come forward, not wishing to be outdone by other lobbyists, and have the strongest lobby they could muster to further legislation favoring their interests or defeat legislation inimical to their interests. Two years ago they succeeded in forcing through the House the bill repealing the Land Grant Act which was enacted years ago in consideration of our Government giving the railroads millions of acres of the public domain upon which to build their rights-of-way. That act gave the Government reduced rates on its freight but now the Government pays the same rates as other shippers, but the railroads have got the land. Under the pending Bulwinkle bill they want exemption from operation of antitrust laws; and now they come in with this outrageous bill. Of course, some of my friends here think that the Interstate Commerce Commission will protect the 25-percent minority of stockholders, but in view of its past record in connection with the Chicago, Milwaukee, St. Paul & Pacific and the Chicago & North Western where, as I have stated, they ruthlessly wiped out thousands upon thousands of stock and security holders, it is impossible for me to retain my former confidence in the Commission.

I feel members of the Committee on Interstate and Foreign Commerce will have ample opportunity to explain the provisions of this bill later during the 2 hours that have been granted for general debate and then under the 5-minute rule. Consequently, I shall conclude my remarks with the request that I have the privilege of revising and extending my remarks and insert some of the profits that the insiders have made on the railroad in the last 50 years, who they were and how they robbed the American investors.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EXTENSION OF REMARKS

Mr. COLMER asked and was given permission to extend his remarks in the RECORD and include an editorial.

MODIFICATION OF RAILROAD FINANCIAL STRUCTURES

Mr. BROWN of Ohio. Mr. Speaker, holding, as I do, a very high regard for the gentleman from Illinois, the dean of the House [Mr. SABATH], I am hopeful that he will carefully review his remarks of today before they are printed in the RECORD, because I seemed to sense he was questioning the integrity of the membership of the Interstate Commerce Commission and of some of our Federal court judges.

Of course, I am not unmindful of the fact, Mr. Speaker, that most if not all of those Commission members have been appointed by the President within the last few years, and that most, if not all, of the judges have also been appointed within the last few years. These appointments were confirmed by the Senate of the United States, after full investigation of the standing and qualifications of the appointees had been made. I am sure these appointments were made in good faith. I am certain the Senate would not have confirmed men who they did not believe were of proper integrity and honor. I am sure the members of the Interstate Commerce Commission and the Federal judges will not be willing participants in any fraud upon the security holders affected by this legislation. So I am hopeful, just as a good friend of the gentleman, that he will carefully review the remarks he has made here today.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. Yes; I yield.

Mr. SABATH. I appreciate the advice of my friend—

Mr. BROWN of Ohio. It is not advice. It is an expression of hope. I know I cannot give the gentleman any advice.

Mr. SABATH. But I want to say to him, and he ought to know, it does not make any difference to me if a man is not performing his duty toward the people, in the position to which he has been appointed or elected, I do not defend him, whether he is a Democrat or a Republican or who he may be.

Mr. BROWN of Ohio. No allegation has been made that the gentleman would defend anyone whom he knew was guilty of fraud; but I am hoping that he will read very carefully the remarks he has made, and unless he does have some evidence to support his thinly veiled charges of failure to perform their duties as they should, which he has made against both the Interstate Commerce Commission and the Federal courts, that he will correct those statements. I will be perfectly willing to strike the remarks I have just made from the RECORD if the gentleman wishes to correct his remarks.

Mr. SABATH. Whenever I hear the gentleman giving advice, I am suspicious.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. REED].

Mr. REED of Illinois. Mr. Speaker, I have requested these few minutes in an effort to clear up any misunderstanding that may exist in the minds of any of the Members concerning a possible conflict between two pieces of pending legislation, the bill to which the rule now before us relates and H. R. 3237.

As most of you know, I introduced a bill in the Seventy-ninth Congress—H. R. 5924—which related to similar subject matter. That bill was designed primarily to grant needed relief to railroads already in bankruptcy. It was amended in committee and by committee amendments from the floor, and as so amended it was passed by the House. A bill with a similar purpose (S. 1253) was passed by the Senate.

The House substituted the provisions of the House bill for S. 1253 and then passed the latter bill as so amended. The Senate called for a conference. The conference report was passed by the House by a majority of about 2½ to 1. Subsequently the bill was vetoed by the President, but on grounds that did not challenge the fundamental principles upon which the measure was based.

Section 1 of the bill that passed the House last year by a majority of something like 2½ to 1 (S. 1253) was very similar to the Wolverton bill (H. R. 2298), which this rule would make it in order to consider this afternoon.

Section 1 of the bill I have introduced this year, H. R. 3237, which is now pending before the Committee on the Judiciary, is also similar to the bill now before us. There are other sections in H. R. 3237, but I would not deem it proper at this time, under consideration of the rule on the Wolverton bill, to discuss H. R. 3237. I will merely point out, however, that there are two principal sections of H. R. 3237, one of which deals with railroads in bankruptcy and the other of which deals with railroads not in bankruptcy. There are some differences between section 1 of that bill and the bill to be considered under the rule now before us, but I do not deem it relevant to discuss those differences in speaking to the pending rule.

What I do wish to impress upon the minds of the membership is that there ought to be relief not only for those railroads in bankruptcy, to enable them promptly and soundly to emerge from bankruptcy, but also for those roads not in bankruptcy, to enable them to avoid bankruptcy.

As has been already stated, Congress passed the Chandler Act in 1939, which was succeeded by the McLaughlin Act in 1942—chapter 15 of the Bankruptcy Act. Those acts provided for voluntary reorganizations, and under them the Baltimore & Ohio and other railroads were reorganized. The McLaughlin Act expired by its terms in 1945. The bill made in order by this rule is patterned after, and is designed to take the place of, the McLaughlin Act.

It is my earnest hope and desire that this rule be granted and that this bill be passed by the House. In my judgment, it will not in any way conflict with the consideration by the House of the bill H. R. 3237, now before the Judiciary Committee.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

Mr. REED of Illinois. I yield.

Mr. SABATH. The gentleman stated that the bill he has reference to, the bill introduced by himself, is now pending before the Judiciary Committee.

Mr. REED of Illinois. That is correct.

Mr. SABATH. What assurance has the gentleman that his bill will be approved by the House and passed by the Senate?

Mr. REED of Illinois. I have confidence in the members of the Judiciary Committee and feel that they are in favor of the bill. I have assurance from the size of the vote last year—2½ to 1—that the House will favor the bill.

Mr. SABATH. That is a good bill. I agree with the gentleman, but my concern is whether the committee will report it out and whether, if reported out, the House will pass it and the Senate will pass it.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield one additional minute to the gentleman from Illinois.

Mr. REED of Illinois. I certainly think nothing can be lost so far as getting the relief that is intended if the House passes this bill, H. R. 2298, and sends it to the Senate. If next week or the week following we pass the other bill, H. R. 3237, and send it to the Senate, then action on the latter bill would obviate further action on this bill, H. R. 2298.

While I feel that the railroads in bankruptcy need relief the most and require immediate legislation to prevent unjust and unnecessary forfeitures of their securities, nevertheless, the enactment of H. R. 2298 alone, even if no action were taken on the bill from the Judiciary Committee, would at least help railroads to avoid bankruptcy in the future.

I therefore hope that the rule will be adopted and that the bill, H. R. 2298, will be passed.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALTER].

Mr. WALTER. Mr. Speaker, if I understand this bill correctly it will have the effect, if enacted into law, of extending the provisions of section 15 of the bankruptcy law which expired last year. For that reason I hope that this rule is adopted and the bill under consideration is acted on favorably.

I have to take exception to the statement made by my distinguished friend from Illinois that this bill resembles very much the measure that was passed at the last Congress and subsequently vetoed by President Truman. True it is that one section of the Reed-Hobbs bill and the measure under consideration are similar, but the iniquitous part of the bill that was vetoed by President Truman was that which permitted the assets of railroads in reorganization to be turned over to stockholders and to that class of investors who were not investing for the purpose of receiving proper return on their investment but for speculative purposes only. So this measure does not remotely resemble the bill that was passed at the last session of Congress.

This legislation is essential, particularly in view of the statements that we have seen in the press recently concerning the earnings of the railroads. Why, the Pennsylvania Railroad paid a dividend in the last quarter out of surplus and has been operating in the red. There is not a railroad in the United States that is going to be able to make money and I make this prediction on the basis of earnings statements I have recently seen: I am firmly convinced that after another year unless legislation of this sort is enacted we are going to see a great many railroads in bankruptcy.

This is a very carefully drawn measure. I am wondering whether or not the distinguished chairman of the committee reporting this bill would not be willing, even though it is surplusage, to provide adequate court review for a decision of the Commission? I do not think that this Commission or any other commission ought to have absolute power. The mere fact that there is some other body which can review the decision of an administrative agency of itself makes that agency more careful in its deliberations and makes that agency act strictly in accordance with the law.

Mr. Speaker, I trust this rule will be adopted.

Mr. BROWN of Ohio. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

EXTENSION OF REMARKS

Mr. DINGELL asked and was given permission to extend his remarks in the RECORD and include two statements.

Mr. McGREGOR asked and was given permission to extend his own remarks in the RECORD.

Mr. HART asked and was given permission to extend his remarks in the RECORD and include a newspaper article and a speech of former Governor Moore, of New Jersey.

AMENDING THE INTERSTATE COMMERCE ACT, AS AMENDED

Mr. WOLVERTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 2298) to amend the Interstate Commerce Act, as amended, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 2298, with Mr. MILLER of Nebraska in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. WOLVERTON. Mr. Chairman, I yield myself 35 minutes.

Mr. Chairman, the bill, H. R. 2298, which is now before us for consideration is, in my opinion, one of the most important pieces of legislation that can come before the House at this time for action. It may not be spectacular and it may not attract the attention that some other subjects of legislation do, but having in mind the situation that confronts us today with respect to the railroad industry, with its diminishing revenues and continuing high cost of operation, I think you will agree with me that there is nothing more necessary, in time of peace as well as war, than to preserve the strength, the stability, and the efficiency of our transportation system. Although the railroad industry is privately owned, yet the fact remains that it is charged with a public interest and there is no other industry wherein the public interest requires, to so great a degree, stability of financial structure and efficiency of operation.

Mr. Chairman, the purpose of H. R. 2298 is to add a new section, to be numbered section 20b, to the Interstate Commerce Act, which will enable railroad companies to adjust their financial affairs quickly, economically, and on a business basis. Such legislation is neces-

sary, and the bill should be enacted as quickly as possible.

The so-called McLaughlin Act, which extended chapter XV of the Bankruptcy Act, provided a procedure for the voluntary readjustment by railroads of their financial affairs without resort to proceedings in bankruptcy or in equity receivership; but that act expired by its own terms in 1945. Since that act came to an end, there has been no similar statute under the terms of which railroads may voluntarily readjust their financial affairs without resort to bankruptcy or equity receivership proceedings.

Inability of a railroad to meet an obligation may be only of a temporary nature, not requiring a drastic receivership or bankruptcy proceeding. The difficulty may be due to omissions or antiquated provisions in an old mortgage or indenture which, because of the burdens resulting therefrom, should be altered or modified and brought in line with more modern provisions.

But, at present, if a railroad should find itself in financial difficulty, even of a temporary duration, it might unnecessarily and unfortunately be forced into a bankruptcy proceeding under section 77 of the Bankruptcy Act, involving proceedings before the Interstate Commerce Commission and in the courts, lasting over a period of many years and imposing a burden of costs and expenses which may run into millions of dollars. In some instances section 77 proceedings which began over 12 years ago are still pending. The range of expenses in a single section 77 bankruptcy proceeding has been from $817,799, in the case of a relatively small road, to $2,891,121, for a large road.

During the first 2 months of 1947, as many as 39 class I railroads, or railroads having a gross revenue of at least $1,000,000 in a year, had a deficit in net income. The number having a deficit in net income in 1946 was 35, and in 1945 the number was 26. After a period of expanded revenues and earnings, occasioned by the war traffic which they handled efficiently and expeditiously, the railroads are now confronted with substantially increased costs and declining revenues. It must not be understood that all these railroads will be required to readjust their financial obligation; but, nevertheless, there is a possibility that some, if not several, may be required to do so, and the time may soon arrive when prompt action will have to be taken.

No one will seriously contend that every opportunity should not be given to a railroad and its creditors voluntarily to work out their own financial problems and to avoid the delays, expense, and uncertainties of bankruptcy proceedings, provided, of course, there is an appropriate regulatory procedure that must be followed before the Interstate Commerce Commission. Such voluntary action is not only desirable from the standpoint of the railroad and its creditors, but it is required for the protection of railroad credit. With the knowledge that the procedure provided for by this bill is available to railroads and their creditors for the readjustment of financial problems which would impose burdens and threaten bankruptcy if not readjusted, investors will have a feeling of greater security in purchasing railroad obligations, and the result will be enhancement and improvement of railroad credit. Such voluntary financial readjustments by railroads and creditors also are necessary in the interest of adequate and efficient transportation service at the lowest consistent cost to shippers and the traveling public. Perhaps no other industry is affected with a greater degree of public interest. In capital invested and revenues, the railroad industry is among the largest in the Nation; and, in importance to the Nation in peace and in war, the railroad industry is the first. The American public has invested heavily in railroad securities, including bonds, notes, debentures and other forms of obligations, and stocks. The public interest, and the interest of all these creditors and stockholders, can be protected only by a continuity in sound financial structure for the railroads. Deterioration of service and interruption of employment, which the threat of financial difficulties inevitably brings, should be prevented.

The purpose of this bill is to provide the most appropriate and efficient remedy for the conditions which have been described.

The method employed by the bill—paragraph (1)—is to permit a railroad, other than a railroad in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act, with the approval of the Interstate Commerce Commission, and with the consent of at least 75 percent of affected security holders, to alter or modify any provision in any class or classes of its bonds, notes, debentures, or other evidences of indebtedness, issued under any mortgage, indenture, or deed of trust, or other instrument of like nature, and also to alter or modify any provision of any mortgage, indenture, deed of trust, or other instrument pursuant to which any class of its obligations shall have been issued. Equipment trust certificates, and conditional sales agreements with respect to equipment, because of their standing and status in the financial markets, are excluded from the provisions of the bill.

Under paragraph (2), whenever an alteration or modification, within the scope of the bill, is proposed, the railroad seeking such alteration or modification must present an application to the Commission. The Commission must hold a public hearing, with respect to which adequate notice must be given, but as a prerequisite to such hearing the Commission may require the railroad to secure assurances of assent by holders of a percentage (to be determined by the Commission) of the aggregate principal amount outstanding of the obligations affected. If the Commission, after such hearing, shall find: (a) That the proposed alteration or modification is within the scope of the new section 20b; and (b) will be in the public interest; and (c) will be in the best interests of the railroad, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration; and (d) will not be adverse to the interests of any creditor of the railroad not affected by such alteration or modification, then the Commission shall cause the railroad to submit the proposed alteration or modification, with such terms, conditions, and amendments, if any, as the Commission may prescribe, to the holders of each class of its obligations affected thereby for acceptance or rejection. The Commission must pass on the correctness and sufficiency of all material facts stated in letters, circulars, advertisements, and financial and statistical statements used in soliciting assents to the proposed alteration or modification. If the Commission shall find that, as a result of such admission, the proposed alteration or modification has been assented to by the holders of at least 75 percent of the aggregate principal amount outstanding of each class of obligations affected thereby—or by such larger percentage as the Commission may fix as just and reasonable in any case where 75 percent of such principal amount is held by fewer than 25 holders—the Commission shall enter an order approving and authorizing the proposed alteration or modification upon the terms and conditions, and with amendments, if any, determined by the Commission to be just and reasonable.

Any alteration or modification which shall, under paragraph (2), become and be binding pursuant to approval and authority of the Commission shall be binding upon each holder of any obligation of the railroad of each class affected by such alteration or modification, and upon any trustee of or other party to any instrument under which any such class of obligations shall have been issued.

Under paragraph (5), the authority conferred by the new section 20b is exclusive and plenary, and any railroad, in respect of any alteration or modification authorized and approved by the Commission, shall have full power to make such alteration or modification without securing approval under any other section of the Interstate Commerce Act, and without securing the approval of any State authority.

Any person adversely affected by an order of the Commission under the new section 20b will have the same full and adequate opportunity to obtain the judicial review of such order which is available under present law in the case of other orders issued by the Commission under the Interstate Commerce Act. It is therefore unnecessary to include specific judicial review provisions in the new section.

The support of the bill is overwhelming. It has the full endorsement and approval of the Interstate Commerce Commission. In a letter of May 9, 1947, the Legislative Committee of the Interstate Commerce Commission describes the purpose of the bill as "to amend the Interstate Commerce Act by adding a new section to be designated as 20b

which would provide a procedure for railroads not in bankruptcy or receivership which are experiencing temporary difficulty in meeting maturing obligations to pay either principal of or interest on outstanding debt, to alter or modify such obligations with the assent of the holders of 75 percent of such obligations with the approval of the Commission without recourse to proceedings in the courts," and calls attention to "the deterioration of service, and decrease of employment, and to the unfavorable effect upon railroad credit and the market value of railroad securities, which accompany even the temporary financial difficulty of a carrier."

In a letter of October 26, 1945, to former Senator Wheeler, the legislative committee of the Interstate Commerce Commission endorsed a bill which was then pending as S. 1253, containing provisions substantially similar to those in the present H. R. 2298, and said that legislation of this character would be in the public interest and of real aid in the restoration of railroad credit, and that instances arise where drastic reorganization, such as results from an equity receivership or a section 77 bankruptcy proceeding, is neither necessary nor desirable. In these respects, the Commission said:

> After further and intensive consideration, we have concluded that it would be to the public interest and of real aid in the restoration and preservance of railroad credit that legislation of this character be enacted.
>
> The Congress is cognizant of the deterioration of service and decrease of employment which usually occur whenever a carrier begins to experience substantial loss of traffic and revenues. This, in no small measure, is caused by the necessity for the carrier to meet its fixed charges or else to face the prospects of receivership or a judicial reorganization under section 77 of the Bankruptcy Act. The financial structures of many carriers were, and in some instances still are, such as to require a thorough rearrangement of their financial and corporate structures. On the other hand, instances arise where drastic reorganization is neither necessary nor desirable. Although the financial difficulty of a carrier may be temporary, when such a condition becomes known, it produces a very unfavorable effect on its credit and the marketability of its securities. This arises from the uncertainty of fear that certain classes of securities may be totally eliminated and others drastically modified in the event of judicial reorganization.

The bill, known as S. 1253, was passed by both the Senate and House of Representatives, but was vetoed because of an amendment adopted after the Commission's letter of October 26, 1945, relating to matters other than those which were contained in the bill as endorsed by the Commission. If it had not been for such amendment, S. 1253 unquestionably would have become a law, and legislation such as that proposed in the pending H. R. 2298 would now be on the statute books.

In his testimony before the House committee on the pending bill, Commissioner Mahaffie called attention to the burdens of old mortgages, with rigid provisions, and to the desirability of providing an effective means for modification in order to bring them in line with flexibility in mortgage provisions of modern times. He said:

> All railroads, as you know, have been built pretty largely on borrowed capital. I think the first bond issue was almost coincident with the construction of the first railroad. Bonds have been always a heavy element in capital structures. The early mortgages were pretty rigid. Some of them contained provisions that made it, for instance, impossible to deviate from the original line of the railroad without affecting the provisions of the mortgage. Some of those mortgages are still extant.
>
> In modern times there has been a great deal more flexibility in mortgage provisions, provisions by which modifications may properly be made. Still there are many of the old indentures outstanding under which the railroads have to live and it is to the advantage of both the carrier and the holder of its securities that desirable modification be made.
>
> Yet it is frequently impossible to modify indentures unless the mortgage is paid off or all the bondholders consent. That is one feature that makes for the desirability of such legislation as this—a means by which oppressive or out-of-date or expensive provisions which are no longer of benefit to anyone can be modified without having to pay off the few people who insist on being paid off in full if you attempt to modify the terms of the obligation. But that is the least important feature of this proposal.

Commissioner Mahaffie then pointed out the more important situation, where most or a great majority of creditors are quite anxious to revise the financial structure so that the railroad can decently survive. He said:

> I had discussed the difficulties that arise from inflexible indentures and mortgages, which, as I stated, are becoming less burdensome in later indentures. That, I stated, was the lesser of the two important things which to my mind make it desirable to facilitate voluntary reorganizations. A more important one is the thing we have just been discussing (that was financial difficulties). Frequently a carrier can see considerably in advance that it is going to have difficulty in meeting a maturity or its interest charges are getting too heavy. Frequently, most or a great majority of its creditors are perfectly aware of those facts and are quite anxious to revise the financial structure so that the railroad can decently survive.
>
> Many voluntary reorganizations have been attempted or have been discussed, but only a few in past times have been carried out, for the reason that there was no instrumentality or no way in which the gentlemen who were unwilling to cooperate and who insisted on being paid out in full, if adjustment were made, could be denied a privileged position as against persons who did go along. There was no way in which it could be done. The alternative to the railroad, if it found it too difficult to proceed under its set-up, used to be receivership. Now it is section 77 proceedings. * * *
>
> All of those, in varying degrees * * * have a detrimental effect on service, or employment, and on the general credit situation that we have been talking about. It has seemed to me important to work out some kind of a scheme by which those effects can be avoided.

In its fifty-seventh annual report—for the year 1943—the Commission pointed out the desirability of legislation such as that now proposed by H. R. 2298.

In its fifty-ninth annual report—1945—the Commission recommended legislation as now proposed by H. R. 2298, and said that such legislation would materially aid in promoting the public interest, increase the stability of values of railroad securities, with resulting greater confidence therein by investors, and promote a more sound financial condition by avoiding prospective financial difficulties.

In its sixtieth annual report—1946—the Commission went into considerable detail in recommending, again, legislation of this character. The Commission said:

> That deterioration of service and decrease in employment usually occur when a carrier begins to experience substantial loss of traffic and revenues is well known. Deterioration of service and decrease in employment are caused, in no small measure, by the necessity for the carrier to meet its fixed charges and maturities or else face the prospects of a receivership or a judicial reorganization under section 77 of the Bankruptcy Act. The financial structures of many carriers were, and in some instances may still be, such as ultimately to require a thorough rearrangement of their financial and corporate structures. On the other hand, instances arise where drastic reorganization is neither necessary nor desirable. Although the financial difficulties of a carrier may be only temporary, such condition, when it becomes known, produces a very unfavorable effect on the carrier's credit and on the marketability of its securities. This arises from uncertainty as to the carrier's ability to extricate itself from its difficulties without judicial reorganization, and the fear that certain classes of its securities may be drastically modified, if not wholly eliminated, in the event of such reorganization.
>
> To avoid such consequences, most creditors would gladly cooperate with the carrier in effecting a voluntary reorganization. However, because of the fact that the obligations of carriers ordinarily are widely held, and for other reasons, it usually is not feasible to effect a voluntary financial reorganization which requires the consent of all the holders of a carrier's obligations or even of all of the holders of an individual issue. * * *
>
> A large part of the capital structures of carriers by railroad has always consisted of bonds. A considerable portion of these bonds is secured by old mortgages which lack many of the provisions which give the flexibility characteristic of mortgages of more recent date, e. g., those permitting or requiring a reduction of the mortgage debt through the operation of sinking funds, those enabling the carrier to call the bonds prior to maturity, and those under which the carrier, with the cooperation of its bondholders, may alter or modify the provisions of the mortgage. As a rule, bonds issued under the old mortgages must remain outstanding until they mature, and maturities may all fall within a comparatively short period. Frequently a carrier can see considerably in advance that it may have difficulty in meeting a maturity, or that its interest charges may become unduly burdensome. There is merely a threat which can be recognized readily by both the carrier and its creditors. Most, or a great majority, of the creditors are well aware of the potentialities of such a threat and are usually willing, sometimes anxious, to cooperate with the carrier in modifying or altering its obligations so that the anticipated difficulty may be avoided. * * *
>
> Since the provisions of chapter XV have expired, there is no method whereby a carrier which is not in need of drastic reorganization, but which anticipates difficulty in refunding its outstanding obligations or

meeting its fixed charges, may work out an alteration or modification of its obligations without the cooperation of all holders of the obligations affected, or without paying off those of the holders who insist on being paid the full amount of their claims. We are convinced there should be provided a simple and inexpensive method whereby carriers in cooperation with a substantial majority of their creditors can effect an alteration or modification of their obligations without bankruptcy proceedings under either section 77 or such a procedure as was formerly provided by section XV.

The passage of the bill is urged by the Association of American Railroads, and by institutional investors, such as insurance companies and banks, and by investment houses and others.

It is clear that this legislation is needed, for the protection of the railroads and their stockholders and creditors, and the public, and it is urged that the bill should pass.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Pennsylvania.

Mr. WALTER. The measure under consideration is an amendment to the Interstate Commerce Act and provides a new section 20b. So, it is a new section, in no wise affecting any of the other provisions, including that for judicial review of the Interstate Commerce Act.

Mr. WOLVERTON. That is true. It does not repeal, amend, or change the judicial review provided by the Interstate Commerce Act. It leaves all of the provisions of the Interstate Commerce Act intact and the same as they now are and have been for many years.

Mr. PRIEST. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Tennessee.

Mr. PRIEST. Further, in connection with what the chairman has just said, and the assurance that he has given the House that there is adequate court-review revision, I will just read from an answer that Commissioner Mahaffie made to me during the hearing, when he said:

Now when our final order came out, however, it would be subject to litigation under the Urgent Deficiencies Act for a defect in the legal steps we have taken that our action was arbitrary, or not in accordance with the law, just as a rate order or any other order we issued may be, and a great many of them are, attacked and reviewed in the courts.

Mr. WOLVERTON. That is true. The constitutionality of a similar provision in the Chandler Bankruptcy Act has been approved, and there is no such provision as some might want to suggest.

Mr. MACKINNON. In view of the gentleman's statement with respect to the power of appeal, I wonder what was meant by the language on page 10, lines 10 and 11, where it says, "The authority conferred by this section shall be exclusive and plenary."

Mr. WOLVERTON. What does the gentleman think it means?

Mr. MACKINNON. Well, I think one meaning of "plenary" is "absolute." I think that construction would throw some doubt as to the existence of a right of appeal.

Mr. WOLVERTON. Does not the gentleman realize that acts of Congress are plenary in character in the matter of regulating interstate commerce when Congress has acted?

Mr. MACKINNON. Yes, but it is the powers of the Interstate Commerce Commission and the courts that the bill is talking about.

Mr. WOLVERTON. Certainly. I am speaking now of the jurisdiction of Congress over interstate commerce. The fact that the result of its action is plenary in character does not preclude the congressional act from having a court review, and the action of the Interstate Commerce Commission taken under and by virtue of the provisions of such an act of Congress is likewise subject to review. I would like to hear from the gentleman why he thinks the action of the Commission under this bill would not be subject to the review procedure provided for in the Interstate Commerce Act.

Mr. MACKINNON. Well, the logic that would support that conclusion is the statement in this bill that the authority conferred upon the Interstate Commerce Commission by this section is "exclusive and plenary." If that is generally true the courts could not interfere as one of the meanings of the word "plenary" is "absolute." In other words, the quoted language may give some support to the construction that the power of the Interstate Commerce Commission is absolute. I agree with the gentleman that the right of appeal should exist and the only question I raise is whether that is effectively provided for in view of the language that I have referred to in the bill.

Mr. WOLVERTON. Of course it is, for the reason that the power that is given to the Interstate Commerce Commission by this bill is an amendment to the Interstate Commerce Act, and that act provides for a review. One follows the other.

Mr. MACKINNON. Yes; but this section here says that the authority conferred by this section is absolute.

Mr. WOLVERTON. Of course, it is as to any action taken but that does not change the fact that its act can be reviewed. The same language, namely, "exclusive and plenary" appears in section 20a of the act. It has been in the statute for many years but it does not destroy the right of review.

Mr. MACKINNON. Which would mitigate against the review, the general review, that would be provided elsewhere.

Mr. WOLVERTON. Of course, the Commission has the absolute right to act, no State or local statute or ordinance to the contrary, but nevertheless when the Commission has acted its order or action is subject to the review provisions of the Interstate Commerce Act.

Any order of ICC may be reviewed in a court proceeding instituted under the provisions of the act of October 22, 1913, 38 Statutes, pages 208, 220. Under that act an injunction proceeding may be brought to enjoin or set aside any order of the Commission in a proceeding in a Federal district court composed of three judges, one of whom must be a circuit judge. Decisions of such court are reviewable by direct appeal to the Supreme Court of the United States. Any dissatisfied bondholder may intervene before the ICC and become a party and institute any such proceeding for the purpose of reviewing in court the order of the Commission.

Mr. MACKINNON. I am very glad to have the gentleman's explanation. I feel that the ambiguity in the bill has been cleared up by the gentleman's statement that such exclusive and plenary power only refers to original proceedings and not as to appeals to the courts.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Minnesota.

Mr. O'HARA. There is, of course, no question that it is the intention of the Congress and of the gentleman and his committee that the right of review by the courts of any order of the Interstate Commerce Commission is intended, and it is not intended to be taken away by this act.

Mr. WOLVERTON. That is true.

Mr. O'HARA. I mean, we do not want to say that there should not be any appeal, and that was our intention when we reported this bill out that there should be the right of appeal.

Mr. WOLVERTON. In conclusion, I wish to express a few further thoughts with respect to the constitutionality of this proposed legislation.

The constitutionality of this bill has been carefully studied.

From these studies we are convinced that the bill is an appropriate exercise of the powers of Congress to regulate interstate commerce.

The bill is declared to be "in aid of the national transportation policy of the Congress, as set forth in the preamble of the Interstate Commerce Act, as amended, in order to promote the public interest in avoiding the deterioration of service and the interruption of employment which inevitably attend the threat of financial difficulties and in order to promote the public interest in increased stability of values of railroad securities with resulting greater confidence therein of investors, to insure, insofar as possible, continuity of sound financial condition of common carriers subject to part I of said act, and to enable said common carriers, insofar as possible, to avoid prospective financial difficulties, inability to meet debts as they mature, and insolvency."

The primary concern of the bill, therefore, is the public interest. The purpose is to protect and insure an adequate transportation service to the public by railroads in a healthy financial condition. In a case involving priority of operating expenses incurred prior to receivership as against bondholders, the Supreme Court has said:

The public retains rights of vast consequence in the road and its appendages, with which neither the company nor any creditor or mortgagee can interfere. They take their rights subject to the rights of the public, and must be content to enjoy them in subordination thereto. (*Barton* v. *Barbour* (104 U. S. 126, 135).)

Since the bill is an exercise of the power of Congress to regulate interstate commerce, it must be borne in mind that the power of Congress to regulate such commerce is exclusive and plenary—*N. L. R. B.* v. *Jones & Laughlin Steel Corp.* (301 U. S. 1). Congress can subject railroads to restraints not shown to be unreasonable and calculated to serve the public interest—*Johnson* v. *Southern Pacific Co.* (196 U. S. 1); *Wilson* v. *New* (243 U. S. 332); *Second Employers' Liability Cases* (223 U. S. 1); *Baltimore & Ohio R. R. Co.* v. *I. C. C.* (221 U. S. 612); *I. C. C.* v. *Goodrich Transit Co.* (224 U. S. 194); *Virginian R. Co.* v. *System Federation* (300 U. S. 515). The power of Congress to regulate the issuance of securities, under section 20a of the Interstate Commerce Act has been upheld, in one case the court having said that—

> The whole matter of the issue of capital stock, investment, and incurring of bonded indebtedness * * * becomes so directly interrelated with the problem of maintaining a just relation between the public and the carrier, that they fall clearly within the constitutional authority of Congress to regulate interstate commerce. (*Pittsburgh & W. Va. Ry. Co.* v. *I. C. C.* (293 Fed. 1001, appeal dismissed, 266 U. S. 640).)

Since the power exists with respect to new issues of securities, the same standards of validity unquestionably should support the power with respect to existing securities.

The prohibition against impairing the obligation of contracts runs in terms against the States and not against the Federal Government—*Hepburn* v. *Griswold* (8 Wall. 603); *Union Pacific R. Co.* v. *U. S.* (99 U. S. 700). While the fifth amendment bars arbitrary action by Congress having the effect of impairing the obligation of contracts, Federal legislation having the collateral or incidental effect of impairing existing contracts has frequently been sustained—*Legal Tender Cases* (12 Wall. 457); *Louisville & Nashville R. R. Co.* v. *Mottley* (219 U. S. 467); *New York* v. *United States* (257 U. S. 591); *Continental Bank* v. *Rock Island Ry.* (294 U. S. 648). In the Gold Clause cases the Supreme Court seems to have gone even further, since in those cases it was decided that legislation is valid when within the constitutional grant, although it directly operates upon and nullifies existing contracts—*Norman* v. *Baltimore & Ohio R. R. Co.* (294 U. S. 240).

In a leading case the Supreme Court said—*Louisville & Nashville R. Co.* v. *Mottley* (219 U. S. 467):

> The agreement between the railroad company and the Mottleys must necessarily be regarded as having been made subject to the possibility that, at some future time, Congress might so exert its whole constitutional power in regulating interstate commerce as to render that agreement unenforceable or to impair its value. That the exercise of such power may be hampered or restricted to any extent by contracts previously made between individuals or corporations, is inconceivable. The framers of the Constitution never intended any such state of things to exist.

In view of the purposes which H. R. 2298 seeks to serve, and the appropriateness of the means chosen for those purposes, the provisions of the bill should without question prevail over any challenge under the due process clause.

Contracts which operate directly to burden or obstruct interstate commerce do not have the protection of the fifth amendment—*Addyston Pipe & Steel Co.* v. *United States* (175 U. S. 211).

I would not justify a bill that did not give an individual the right of review after the Interstate Commerce Commission had acted.

Mr. LEA. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this legislation deals with a very practical problem that now confronts our country, one of great importance. A few years ago, before the war began, 30 percent of the mileage of the railroads of the United States was in the possession of the courts in one form or another on account of their financial difficulties. Frequently unwarranted financial obligations contributed very substantially to the weakened conditions of these carriers. They were hopelessly bound by contract obligations that were no longer compatible with the carriers affected or the public interest. There was no practical relief.

In the last few months we have had a demonstration of the lack of earning power of a large part of our carriers that suggests the possibility, unfortunately, that we may again face a similar situation. In fact, some of the railroads are now rapidly following the course toward the courts that placed them there before. It is of great importance that the most practical plan that is just can be adopted to avoid these railroads being forced into the courts.

The principal features in this bill are that a carrier is permitted to apply to the Commission for the modification or alteration of its obligations. The Interstate Commerce Commission can, if it chooses to do so, demand in the initial stage an assurance that a certain percentage of the holders of those obligations are agreeable to the plan. In the absence of such an action by the Commission the law here proposed requires that holders of at least 75 percent of the obligations must consent to a plan of modification or alteration before the Commission has power to approve it. If there are less than 25 stockholders as a whole, it will be the duty of the Commission to determine whether or not a higher percentage of the security holders should be required.

Then after that stage of the proceedings is reached the matter goes to a hearing, in which, of course, the interested parties are entitled to appear. If after that hearing the Commission finds certain specified facts, the Commission may make an order approving or rejecting or suggesting alterations in the plan before it gives its approval. Only after the complete approval of the plan does it become effective.

This is fundamentally a permissive plan. It is true that as much as 25 percent of the holders of obligations may be compelled to comply with the order that is made by the Commission without their consent. The practical question presented here, as I see it, is whether or not the minority holders of these obligations are sufficiently protected by the provisions of this bill. There are two fundamental provisions intended for their protection. The first is that 75 percent of each class of holders of obligations affected must consent before the Commission has power to make an order. The second method of protecting the holder is by the hearing and approval required by the Interstate Commerce Commission.

It is suggested that there should be an approval also by the court. I think the provisions embodied in this bill more strictly conform to the general policy of the bill and afford justice to the holders of obligations. In my judgment a procedure that requires a duplication of hearings and findings by each of two separate agencies of the Government is not conducive to good administration.

In other words, if we require court approval and the approval of the Interstate Commerce Commission, that means a double proceeding with the delay and expense which is frequently involved in court procedures.

In supporting this bill I do so on the theory that the hearings and findings of the Interstate Commerce Commission and this requirement that 75 percent of the holders must agree, is ample protection for the holders of those obligations.

Just for a moment I would like to repeat the statement of the bill as to the findings required to be made by the Commission as presented by the gentleman from New Jersey [Mr. WOLVERTON]. The findings required to be made by the Commission indicate the care and scope of the investigation by the Commission before it determines the issues. The Commission must find that the proposed alteration and modification is within the scope of this act; that it will be in the public interest; that it will be in the best interests of the carrier and of each class of holders of obligations and of the holders of each class of its obligations affected by such modification or alteration and will not be adverse to the interest of any creditor of the carrier.

This legislation does not come under the bankruptcy clause of the Constitution, but rather under the interstate-commerce clause of the Constitution under which the Interstate Commerce Commission acts. It gives a hearing by a fair body and certainly by a competent body. I think no one could deny that there is no greater familiarity and ability in dealing with transportation problems in the government than in the Interstate Commerce Commission. I would as soon or rather expect a just judgment from the Commission than from a court. I think there is no practical reason why such adjustment as here proposed should be heard by both the Commission and a court before approval could be given. Such a procedure would require a determination of issues of fact by two governmental agencies.

That is the substance of the situation. I believe the stockholders are sufficiently protected. It is of great importance that this measure become a law so as to avoid bankruptcies and expenses and delays of court procedure so far as possible.

There are a good many cases in which carrier companies have been in the con-

trol of the courts until the patience of everybody concerned has been worn thin. In the meantime some of those unfortunate companies have had their treasuries greatly depleted by the expenses incidental to such proceedings.

This is not a substitute for bankruptcy, but it is a method which we hope will substantially lessen the necessity of bankruptcy proceedings.

Mr. Chairman, I yield back the balance of my time.

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. O'HARA].

Mr. O'HARA. Mr. Chairman, I feel that this bill has been rather fully explained by the statements of my able, distinguished colleagues, the gentleman from New Jersey and the gentleman from California, who have preceded me in speaking on this bill.

It is true that this bill is presented to the Congress under the theory of the Constitution granting to the Congress the right to regulate interstate commerce. I do believe that everyone will agree with the general appeal of the legislation, which is mainly an attempt to avoid the expenses of bankruptcy proceedings to the stockholders and bondholders of the railroads and in lieu thereof to vest jurisdiction of reorganization in the Interstate Commerce Commission if not less than 75 percent of the bondholders agree to such proceedings. I hope this is not used, if it becomes law, for any other purpose than to escape the expense of bankruptcy proceedings; and that it will not seriously affect the rights of other minority stockholders or minority claimants, whichever they be, either bondholders or stockholders. I think a great deal depends upon how carefully and assiduously the Interstate Commerce Commission applies itself to the administration of the act. Frankly, I would say that a great deal depends upon the type of administration and the attention given this act by the Interstate Commerce Commission.

In response to a question asked by my colleague, the gentleman from Minnesota [Mr. MACKINNON], of our distinguished chairman, the gentleman from New Jersey [Mr. WOLVERTON], it is my understanding that the language contained on page 10 of the bill, where the language refers to subsection (5) in line 10, "Authority conferred by this section shall be exclusive and plenary," refers only to the original jurisdiction of the Interstate Commerce Commission, and does not in any way affect the right of appeal by anyone from any order made by the Interstate Commerce Commission, either jurisdictional or in the course of these proceedings. There is nothing that would or should prevent any individual, person, or corporation from the right of appeal. I think, as the chairman has said, no one on the committee would bring out a bill which did not give the person affected the right of appeal, which exists under the law at the present time, from any order of the Interstate Commerce Commission.

There is one other matter which I do not raise because of any confusion, but which has been a matter of some concern. It was the testimony of a very able witness before our committee, Mr. Fletcher, who represented, as counsel, the Boston & Maine Railroad, as to the practical situation which arises with reference to the management of a railroad which, after being authorized by 75 percent of the bondholders, would go into this organization, with reference to the difficulty of that organization proceeding for some time, where the stockholders did not have any voice in the management. The only difficulty which I see and which may cause some concern is the practical question of management. It has been a difficult subject with which to deal in this bill, and it may properly come up later on during the consideration of a bill which I understand will be offered by the gentleman from Illinois [Mr. REED], who has recently spoken on the matter. I think, however, it is a matter to which we will have to give further consideration, depending upon what may develop in the number of cases which may arise under this bill.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. O'HARA] has expired.

Mr. LEA. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. RABIN].

Mr. RABIN. Mr. Chairman, I have listened very carefully to the statement made by the distinguished chairman of our committee. I have a great deal of respect for the chairman of our committee. I agree with that statement in substance. I do not agree with it entirely. This bill is a step in the right direction in connection with railroad reorganization; in fact, it is a step in the right direction in connection with the reorganization of any corporate enterprise where the holdings are diverse and where the holders are numerous.

This bill seeks to prevent financial difficulty rather than to cure it after the difficulty has arisen. It seeks to give prophylactic treatment to the financial troubles of the railroads. I am one who believes that an ounce of prevention is worth a pound of cure holds good in dealing with financial difficulties as well as with medical troubles. I go along with those objectives. I think however certain safeguards are lacking and I want to recommend the adoption of those safeguards. I shall offer what I consider proper safeguards at the time this bill is read for amendment. I want to recommend safeguards which will make the bill in my opinion more just and more equitable to the parties affected. I want to recommend safeguards which will strengthen the constitutionality of the bill.

I do not say this bill is unconstitutional. I do not know how anybody can say whether it is or it is not in the light of the 5-to-4 decisions that have been handed down lately. I do not know how, even though you be an acknowledged authority on constitutional law, you can make a flat statement about the constitutionality of the bill. I have, however, some serious doubts as to the constitutionality of the bill as it now stands. I will discuss that later. But even though the bill be constitutional I think the amendments I wish to offer should be in it because they will make the bill more equitable and fair. I will discuss them in great detail later but just mention them now in passing. One amendment provides for real court approval of any plan adopted by the ICC. I say "real" court approval—adequate court approval. I say we need more than a court review that simply considers patent defects in procedure or arbitrary decisions of the ICC; and that is all the review you now have under this act.

Secondly, I will offer an amendment which will provide that in the case of a minority dissenter his rights should be protected, but without giving him an opportunity to prevent the reorganization and without giving him an opportunity to embarrass the reorganization and without giving him an opportunity to strike against the reorganization unless he gets an unfair payment. With these two amendments I think it will be a better bill constitutionally, it will be a better bill equitably.

When a debtor is in trouble what does he do? He calls in the creditor and they sit around the table and try to reach an agreement that will solve the difficulties of the debtor. It cannot be done in railroad reorganizations because there are thousands of creditors. You cannot get them around a table, and even if you could get them into a large hall you would never get 100-percent consent. Under the new, modern, streamlined trust indentures we have provisions for modifying them without 100-percent consent. The old indentures require 100-percent consent. We therefore need a bill of this kind, we need a bill of this nature; and this bill is written to cure that obstacle in dealings between creditors and debtors. Under this the companies will bargain with the bondholders. The ICC's position is to call the parties in, sit around the table, supervise the negotiations, and in effect be an umpire.

What can the ICC do under this bill? Let us assume I have a $1,000 bond and I do not go along with the plan, even though 75 percent of the bondholders do want to go along with the plan. What can they do with my bond? They can say to me, "Instead of a thousand-dollar bond you will take $500." They can say to me, "Instead of your bond becoming due in 2 years it will become due in 20 years." They can say to me, "Instead of taking 5-percent interest you take 2-percent interest." True, they must find that such decisions are in the best interests of all the bondholders, of all the stockholders, and of all those who are affected.

Now, I have a great deal of respect for the members of the ICC. When they came before our committee I was agreeably surprised at the high type and high caliber of men they are, distinguished jurists most of them.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from Arkansas.

Mr. HARRIS. I believe the gentleman said that the stockholders were affected.

Mr. RABIN. I mean the bondholders.

Mr. Chairman, the men of the Interstate Commerce Commission are men of exceptionally high type, and I may say if you would compare them with men in other agencies they would not only compare favorably but would excel in many instances. As I say, I have respect for them, but so have I respect for the courts, and we allow an appeal on the merits from decisions of courts. They are human. They may make a mistake.

Suppose I am a minority stockholder and I think they made a mistake in this case—that they reached the wrong conclusion, that they are taking my property unfairly and unjustly. What can I do about it? I say my investment is impaired; it is a breach of my contract. What can I do? The Interstate Commerce Commission will answer: "We are bound by certain judicial decisions. We cannot do anything arbitrarily." Yes; they are bound by certain judicial decisions; but as has been pointed out in this bill, their power is plenary, absolute. They say, "Well, you can go to court and get a review." But can you? Can you go to court and can you have a review? The review that you get in court under this bill, under the ICC Act, under any administrative act, for that matter, is not a review that determines the merits of the claim. It is a review, and I will quote the words of a member of the ICC, Mr. Mahaffie, who appeared before us. He says unless they did something arbitrary or unless the application is filed in a way that the corporation was not legally authorized to file it, or there is some defect that is patent.

You can only review arbitrary decisions. You cannot review their judgment. That is what I think the minority stockholder should have a right to do. I think he should have a right to review their judgment. I do not think that would cause any great delay, either.

Mr. LEA. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from California.

Mr. LEA. I take it that under the method the gentleman proposes you would have to have two hearings on all questions involved, one before the Commission and one before the court?

Mr. RABIN. I am getting to that now. They say that their objection to that type of review is that these bankruptcy proceedings have been in court for many years. True, they have been in court for a long time, but the inception of those proceedings is in court, and most of the time it takes in court is for the parties to get together on an agreement.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LEA. Mr. Chairman, I yield the gentleman seven additional minutes.

Mr. RABIN. Mr. Chairman, before you get to court this plan has been worked out. Time must be taken to reach an agreement of at least 75 percent. That time must be taken in any event. All it requires is a motion in court. The court does not have to work it out. I have had some experience in this type of work. I had the privilege of helping write a reorganization bill in New York State with respect to real estate, where we had as many as 7,500 bondholders in one single issue. I reorganized 15,000 issues affecting the rights of 250,000 bondholders. I reorganized a billion dollars' worth of mortgages with 15,000 separate issues, and we had a court review in each. We did the whole job in 4 years, and I wrote to the Governor, asking to abolish my office. We finished the job.

Now, it can be done and it should be done.

The next amendment is this: Where a bondholder is in a minority and they cut down his interest to 50 percent, or in any other way, I say he should have a right to say "appraise the value of my bonds and give it to me either in cash or provide security therefor." I do not say to let the bondholder strike and let him get 100 percent of his dollar, or else let him hold up the proceeding. I do not say he should do that, but give him the value of his bonds. I do not say give him cash, because it may embarrass the reorganized company to give him cash. The railroad may not have it. I say provide for some security. He has a contract.

True, the Constitution does not prohibit the United States from violating a contract, but is there any reason for us to do it? That is no reason for us to do it. But, the due process clause may prevent us from doing just that. At the hearing cases were cited which we were told held the violation of a contract to be constitutional. What cases did they cite? They cited the Gold Clause case. I am not going to consider whether that was a good decision or a bad decision. That was the decision and that is the law. I venture the opinion that most of the Members to my left did not think at the time the decision was handed down that it was good law, but that decision was written in a period of emergency. That decision was written at a time when not to do it would cause great national harm. In some instances a decision like that is justified even though it does appear to violate the terms of the Constitution. If I be wrong on that then I am too generous to those who have views on the constitutionality of these provisions. But to provide for the protection of the right of contract, as I ask provision be made, is not to do anything that is unknown to American jurisprudence. We strive to protect the right of contract, and again I say, merely because we have the right to abrogate the terms of a contract is no just reason for doing that, and we can avoid it without endangering the plan, without hampering reorganization and without depriving any holder of a bond of his rights as given to him under the mortgage.

I am for this bill. I think we ought to accept these safeguards which do not impair its efficacy.

Mr. WOLVERTON. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from New Jersey.

Mr. WOLVERTON. The gentleman made reference to the Gold Clause case, and very properly so, because I think the decision in that case resolves most of the doubts that he otherwise would have had in his mind. Does the gentleman want to make any reference to the decision and the principles upon which they were founded in the Holding Company Act cases?

Mr. RABIN. I will say this, we are not going to resolve the question of constitutionality on this floor. Whether I believe it to be constitutional is immaterial, but I do say—that even if this bill be constitutional, and I will pass the question of constitutionality, while I seriously doubt it—even if it be constitutional, there is no good and valid reason why a bondholder should not have the right to have court approval on the merits of a plan; why there should not be an adequate review and also why the bondholder should not have his contract protected, if we can do that by the provisions of the bill.

Mr. HUGH D. SCOTT, JR. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from Pennsylvania.

Mr. HUGH D. SCOTT, JR. Does not the gentleman fear that his amendment to provide for the fixing of the value of the dissenting holder's securities would lead to innumerable hold-ups or a very polite form of legal blackmail, and is not that the very illustration cited by Mr. Mahaffie in the hearing regarding the New England railroad referred to?

Mr. RABIN. My answer is no, first, and I will tell the gentleman the difference. In that case the bondholder insisted on 100 cents on the dollar plus accrued interest. Here all I provide for is that the value of the bond be fixed at the time of the reorganization proceedings. Second, here I do not provide that he be paid cash. I provide that some security be given him for it. Third, I assume in these reorganizations that the value of the bonds will go up, otherwise it is of no benefit to the bondholder to reorganize, and the bondholder who dissents gets his value fixed as of the time of the reorganization, which would be less.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LEA. Mr. Chairman, I yield five additional minutes to the gentleman from New York.

Mr. RABIN. If we are going to pay the man the value of his security as of the time the reorganization was started, then it would be less, and there would be no inducement for him to dissent.

Mr. HUGH D. SCOTT, JR. It does appear to me as if this is opening the door to a lawyers' holiday. There are an infinite number of possible interventions by people who would like to get some advantage from it.

Mr. RABIN. I can only give the gentleman my experience, where I reorganized a billion dollars worth of mortgages, with 15,000 separate issues, and we did it all in 4 years, and there were no strikes, no hold-ups, and everybody came through all right. That is my experience over 4 years.

Mr. KLEIN. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from New York.

Mr. KLEIN. I want to carry further the point that the gentleman from Pennsylvania made, which is the question of delay by an objection by a dissenting

bondholder. Will there be any delay? Will it have to go through the courts and thus hold up the entire reorganization proceedings?

Mr. RABIN. Under my amendment, the entire reorganization is finished before there is any chance to go to court. The plan is approved, they have the 75 percent, and the decision of the ICC is made. It is on motion, and the court can pass on it summarily.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from Arkansas.

Mr. HARRIS. Would it not necessitate a hearing by the court before its determination could be made as to whether or not the court would approve the plan? Then it would go before the Commission, as I understand.

Mr. RABIN. No; the Commission can do it. It does not become effective until after the court approves it.

Mr. HARRIS. It must have the approval of the district court?

Mr. RABIN. That is right.

Mr. HARRIS. Then it would necessitate a hearing before the court before the court could give its approval.

Mr. RABIN. It is in the court's discretion.

Mr. CARROLL. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from Colorado.

Mr. CARROLL. I know the gentleman from New York has made a very careful study of this bill. Will he tell us very briefly under what circumstances a carrier can invoke the provisions of this law? What is the legislative intent?

Mr. RABIN. The carrier can come in and petition the ICC for a reorganization of its bonded indebtedness, or of any particular class of bonded indebtedness, if it believes that such reorganization will offset financial dangers, and the Commission can grant it if it finds it is in the interest of the corporation, the bondholders, the public, and the stockholders, and if it has 75 percent consent.

Mr. CARROLL. I wanted to have the record show that the Commission itself has to make a finding as a condition precedent that such a condition did exist.

Mr. RABIN. That is right; the Commission will have to find those things. There is no doubt about that.

Mr. CARROLL. The next question I have to ask concerns the gentleman's amendment on the minority bondholder. Could he have been in agreement originally with the 75 percent, and then protest later?

Mr. RABIN. No, that is only for a minority bondholder, one who dissents.

Mr. CARROLL. Then he would go into court and have his day in court, is that the gentleman's idea?

Mr. RABIN. Yes. Then, if it is decided against him, he can have his bond appraised and step away from it. I fear that 75 percent of the bondholders can force out the 25 percent minority. It would be difficult but it can be done. I do not want to leave any loopholes in a bill of this kind where 75 percent can push 25 percent around.

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from Maine [Mr. HALE].

(Mr. HALE asked and was given permission to revise and extend his remarks.)

Mr. HALE. Mr. Chairman, I do not suppose I can add anything very material to what has been said by the very able speakers who have already discussed this bill.

I want, however, to attest my interest in the passage of the measure because I think it is a desirable and constructive piece of legislation.

Its purpose is certainly a laudable one. Its purpose is to enable a railroad which is in financial difficulties or is on the verge of getting into financial difficulties to alter or modify its obligations without the expense and long delays incident to procedure under receivership or under section 77 of the Bankruptcy Act.

Of course, there would not be any need of legislation of this sort if we could be perfectly sure that the railroads would never again be in financial difficulties, but, unfortunately, it is almost certain that they will be in financial difficulties. In fact, our Committee on Interstate and Foreign Commerce is now engaged in hearings on bills in which the financial difficulties of the railroads are revealed.

We have a bill before us now in which it is sought to give the railroads in effect a subsidy to buy boxcars on the theory that the boxcars will not be obtained in any other way. I do not say that this is a sound piece of legislation. I do not say it is going to pass, but I do say that it indicates the very grave concern which not only the railroads have but the shippers have, for the roads' financial soundness. The railroads, of course, had unprecedented gross incomes during the war, but the peak of their net income came in 1942 before the expenses of operation increased as they did subsequently. Last year, in 1946, the railroad net, I think, was at the rate of 3½ percent on their capital investment, and the Interstate Commerce Commission granted them a belated rate increase effective the first day of January 1947. But it is doubtful if the railway net income this year, even with the increased rates, will be as good as it was in 1946.

Of course, if you have railroad strikes and if you have a depression, which dries up the gross revenues of the railroads, then the roads' position is going to be even worse.

The war showed us, if we needed to be shown, how completely we were dependent upon the American railroads. Had they come to a standstill, the war itself would have come to a standstill.

The bill provides a new section to part I of the Interstate Commerce Act to be known as section 20b. I call attention to the fact that this legislation is an amendment to the Interstate Commerce Act. It does not repeal any provisions of the Interstate Commerce Act with reference to appeals and so on.

Under this bill, as has been explained, the embarrassed road may modify any provision or any clause of its bonds, notes, or debentures, or other evidences of indebtedness except their equipment trust certificates, when the Interstate Commerce Commission after hearing shall make four findings.

I particularly call attention to the fact that we have provided for due process in connection with hearings before the Interstate Commerce Commission. The committee amendments which appear on lines 17 and 18, page 4, provide for reasonable notice of any hearing, by mail, advertisement, or otherwise, as the Commission may find practicable and may direct.

The CHAIRMAN. The time of the gentleman from Maine has expired.

Mr. WOLVERTON. Mr. Chairman, I yield the gentleman two additional minutes.

Mr. HALE. The Interstate Commerce Commission must find that the modifications are within the scope of paragraph 1; that they are in the public interest; that they are in the best interests of the railroad and each class of the stockholders; and that they are not adverse to the interests of any of the creditors that are affected. If the Commission makes these findings, the modifications must be referred to the bondholders for their assent. Seventy-five percent must assent.

I have listened with very great interest to the remarks of my distinguished colleague from New York [Mr. RABIN]. I appreciate his concern for the constitutionality of this legislation, but I believe that one can affirm its constitutionality as safely as one can affirm the constitutionality of any legislation. See pages 25 and 26 of the hearings and page 4 of the report. It seems to me that the amendments which he proposes with respect to dissenting bondholders would gravely impair, if they did not completely nullify, the value of this legislation, because they simply would offer a bondholder an incentive to dissent and not to go along.

Mr. HUGH D. SCOTT, JR. Mr. Chairman, will the gentleman yield?

Mr. HALE. I yield.

Mr. HUGH D. SCOTT, JR. The gentleman from New York [Mr. RABIN] stated that his amendment was designed to see that 75 percent of the bondholders did not push 25 percent around. Is it not more likely that his amendment would enable some part of the dissenting 25 percent, through this proceeding, to push the 75 percent around to the disadvantage of the general public as well as a majority of the bondholders?

Mr. HALE. I think what the gentleman says is precisely right. I think that is exactly what would happen. Of course, the reason we want this legislation at all is that it is now too easy for a small minority to push a large majority around.

The CHAIRMAN. The time of the gentleman from Maine has again expired.

Mr. COLE of Missouri. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Forty-five Members are present; not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 84]

Allen, Ill.	Flannagan	Macy
Anderson, Calif.	Fuller	Mansfield, Tex.
Bell	Gallagher	Monroney
Bennett, Mich.	Gifford	Norton
Bland	Granger	Patman
Blatnik	Hart	Pfeifer
Bloom	Hartley	Ploeser
Bonner	Havenner	Powell
Boykin	Hébert	Rains
Buckley	Hill	Richlman
Celler	Hope	Rivers
Clark	Jones, N. C.	Sarbacher
Clements	Jones, Wash.	Sheppard
Coffin	Kearns	Sikes
Combs	Kefauver	Smith, Ohio
Coudert	Kelley	Towe
Cravens	Kennedy	Van Zandt
Dawson, Ill.	Keogh	West
Dolliver	Larcade	Wigglesworth
Engle, Calif.	Lucas	Winstead
Fernandez	Lusk	Wood
Fisher	McMillan, S. C.	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MILLER of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having under consideration the bill (H. R. 2298), and finding itself without a quorum, he directed the roll to be called, when 361 Members responded to their names, a quorum; and he submitted herewith the names of the absentees to be spread upon the Journal.

The SPEAKER. The Committee will resume its sitting.

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. CARSON].

Mr. CARSON. Mr. Chairman, I feel it is necessary now to go over a little more what we have already gone over because so many of the Members were not present at that time.

We are now considering H. R. 2298, which is a reorganization bill for modification of railroad financial structures. This bill was introduced by the chairman of our committee in the form suggested, and upon the recommendation of the Interstate Commerce Commission. I know of no other commission that is more familiar with railroads than the Interstate Commerce Commission. If you will look over their annual reports for the past few years, you will find that in their fifty-seventh annual report, also in the fifty-ninth and in the sixtieth annual report, they included recommendations for the enactment of such legislation as you have before you now.

There is undoubtedly need for this legislation, and we need it at this particular time. Even though the railroads, as we know, are privately owned, no other industry is affected with a greater degree of public interest. In capital invested and revenues earned it is among the largest in the Nation. There is no other industry that I know of in this United States that is of more importance to the Nation, both in peace and in war. The American people collectively have a tremendous personal and financial interest in the railroads. They have even greater interest in the continuity of efficient and adequate service on the railroads. I say there is need for this for the simple reason that we had before this a law as you will remember in 1939, the law which was passed at that time which lasted for only approximately 1 year. In 1942 the McLaughlin bill came in and that expired November 1, 1945. There is need at this particular time because there is no other legislation on the statute books that meets the situation exactly as it is now.

Mr. HINSHAW. Mr. Chairman, will the gentleman yield?

Mr. CARSON. I yield.

Mr. HINSHAW. I think it might be well at this point to explain to the membership of the House that the quorum call recently made was not on behalf of the committee nor in connection with this bill.

There appears to be no particular argument concerning the bill, but there may be some amendments offered at the conclusion of the debate.

Mr. CARSON. That is a correct statement and I thank the gentleman for calling attention to it.

Mr. Chairman, we had before our committee some very fine men. I wish just briefly to call attention to some of the testimony they gave and the position they take with reference to the bill.

Mr. Charles D. Mahaffie, Commissioner of the Interstate Commerce Commission, in a letter to the committee made the following statement:

It has seemed to the Commission that we have arrived at a time when we could well ask the Congress, as we have, to consider facilitating voluntary reorganizations where it can be shown to be in the public interest and where a sufficient number of creditors affected consent. It is on this basis that we recommend this bill.

It is on that basis that the bill is recommended to us.

I want to bring the attention of the membership particularly to part of the testimony of Mr. Mahaffie in which a question was asked by Mr. HOWELL, and you will find it on page 12 of the hearings:

Mr. MAHAFFIE. The desirability of such legislation and such a procedure being available is, I think, illustrated by the present earnings' history of the railroads. For the first 2 months of this year, out of 126 class I railroads, whose reports are analyzed in statement M-125 issued by our Bureau of Transport Economics and Statistics which I have before me, 39 of those railroads had a deficit in net income. I do not mean to infer that those 39 railroads will necessarily have to readjust their obligations, but it at least points at the possibility that exists in that regard.

For the year 1946, of a similar number of class I railroads, 35 showed a deficit in net income.

For the year 1945, 26 showed a deficit in net income. I cite those, as I say, merely as showing the possibility that among the railroads there will be some who will find it desirable and whose creditors will find it desirable that their obligations be revised.

He also brings out very forcibly to us the only law that we have on the statute books at the present time which will meet this situation, which is the section 77 procedure but that is still a very elaborate, very expensive, and very time-consuming proceeding.

I just want to bring to your attention in passing a few of those proceedings in this 77 bankruptcy bill. I think it will be of interest to you.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. WOLVERTON. Mr. Chairman, I yield three additional minutes to the gentleman from Ohio.

Mr. CARSON. Under section 77 proceedings the extent of the expense involved, ranging all the way from $1,811.95, for a relatively small road, to $2,135,778 and $2,891,121 in the case of two large carriers.

Even under section 15 procedure, which has now expired, as I recall, the B. & O. Railroad in a reorganization was nearly 2 years getting the reorganization started and it cost $1,500,000. That is the situation we are faced with now, and I bring these to your attention to show the need of this legislation.

I want to pass hurriedly on in my limited time and come to some of the people who appeared before our committee who are definitely in favor of this legislation. We had a letter from Halsey Stuart & Co. of New York, in which they make the following statement:

All that was then said in our behalf in support of the Mahaffie bill is, we believe, now equally applicable in support of H. R. 2298 (which is identical, except for a few minor language changes and the beneficial addition of paragraph (11) which clarifies the exemption from the Securities Act of 1933 of securities issued in proceedings under H. R. 2298).

As well as reaffirming our views previously expressed, we would point out that the expiration (since November 1945) of another year and a half in the pendency of railroad reorganization proceedings which have now been pending for 12 or 14 years, has served to illustrate even more forcefully the desirability of some more workable and prompt method of adjusting the financial embarrassments of railroads. In our opinion, the enactment of H. R. 2298 would provide a much-needed alternative to reorganizations under section 77 and would be of great and lasting benefit to railroad credit. We believe that passage of your bill is desirable from the standpoint of both the public interest and of the interest of railroad creditors and other security holders.

I want to go a little into the testimony of Mr. Carter Fort, vice president and general counsel of the Association of American Railroads. This is what he had to say:

We are very strongly in favor of H. R. 2298.

He further states:

Experience has demonstrated that a great deal of time, perhaps several years, is consumed by section 77 proceedings and that very large expenses are incurred in such a proceeding. This is only to be expected in view of the complexity of a section 77 case and of the many issues and interests involved.

We will now go over to the testimony of Fred N. Oliver, who was speaking on behalf of two organizations. One was the Railroad Security Owners' Association, in which there are 354 members with bonds amounting to approximately $2,500,000,000, or something in excess of 20 percent of the total bonded indebtedness of the railroads of the country.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. LEA. Mr. Chairman, I yield the gentleman two additional minutes.

Mr. CARSON. Mr. Chairman, Mr. Oliver also stated that he appeared on behalf of the railroad committee of the National Association of Mutual Savings Banks located in 17 States, that they have about 16,000,000 depositors and that most of these banks are also members of the Railroad Security Owners' Association.

He stated definitely in our hearings:

I have been instructed by the executive committee of the Railroad Security Owners' Association, and the Railroad Committee of the National Association of Mutual Savings Banks to appear before this committee in support of H. R. 2298. We believe that this measure, if enacted, will be beneficial to the railroads, to the security holders and to the public. We believe it will do much to re-establish confidence in railroad securities, railroad investments, for reasons which I shall outline.

Those are a few of the people who appeared before us in our hearings.

In summing up this matter, it seems to me we should look at the entire situation. We are definitely doing something in the interest of the public because when a railroad operates under threatened bankruptcy it will skip on maintenance and thus reduce the number of its employees. A poorly maintained railroad is not good for the traveling public, it is not good for the employees, it is not good for the investors, it is not good for the stockholders or the Nation. This is an effort to do something before the damage is actually done.

As we read the bill you will find every single step that is taken is under the jurisdiction of the Interstate Commerce Commission. It is a voluntary act on the part of the railroads. They appear before the Commission. They file their application if they so desire and the Commission even controls the manner in which they will file it. Nothing possible can be done in the matter until at least 75 percent of the security holders have consented and they are within the Interstate Commerce Commission control.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. LEA. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. KLEIN].

Mr. KLEIN. Mr. Chairman, I am not a member of the committee reporting this bill, but I am a member of the Committee on Corporate Reorganization of the Association of the Bar of the City of New York. This committee has had this question under consideration, and although I cannot find the report which was filed, I do know that the committee considered this question and reported favorably on it. There does not appear to be any objection to the bill, but my colleague from New York [Mr. RABIN], a member of the committee, will introduce two amendments later on which I feel will make this a better bill. One will provide for court review of decisions of the ICC and the other will add additional protection for the dissenting minority bondholders, the 25 percent or less group.

I want to clear up some misunderstanding about the effect of the amendments to be offered by the gentleman from New York [Mr. RABIN]. He will go into it in detail when he speaks on those amendments. It would not delay the reorganization proceedings under this act at all. If the 75 percent of the bondholders agree to the plan, the plan will go through. The only additional protection that we would like to give the dissenting bondholders is that they can come in and say, "We do not want to go along with this plan. There will be no hold-up or strike suit, such as exists at the present time. All we want is this: We do not want to go along with the plan. We want to get paid either in cash or securities as of this date.

"We want an appraisal made as to the value of our bonds as of now, and say that later on—we do not care when that may be, at some future time—we want to get the value of our security as of this time." It would not hold up the proceedings. The reorganization would go through according to plan if 75 percent agreed, and the other fundamentals under this bill were present. But it would give that additional advantage to the minority, to the dissenting bondholders who do not want to go along with the plan. All he wants is to get back the value of his securities; not what he paid for them or what they would be worth at maturity, but simply what they are worth at the present time. I do not see how anybody can object to that, and I hope, gentlemen, when the amendment is offered, it will be adopted by the Committee.

Mr. WOLVERTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HOWELL].

Mr. HOWELL. Mr. Chairman, this bill came to the Committee on Interstate and Foreign Commerce with the unanimous recommendation of the Interstate Commerce Commission in a letter of transmittal by Mr. Walter M. W. Splawn, chairman of the legislative committee, Interstate Commerce Commission. Mr. Charles D. Mahaffie of the Commission appeared before the committee in support of the measure. There was no opposition offered to it by anyone at any time.

As has been previously pointed out by my colleagues on the committee, it provides a simple and inexpensive manner by which railroads may reorganize without being forced into our regular bankruptcy courts under the ordinary proceedings of section 77 (b) of the Bankruptcy Act. It is expedient and it is vital, and the bill comes to the floor without opposition. If the Members will read just the first opening paragraph of the report which accompanies the bill, I know you will agree that the measure does deserve support and should be enacted not only in the interest of the investing public, the railroad users, the shippers, but everyone interested in the future of our railroad industry as it contributes to the economic welfare of our system of private enterprise.

So, therefore, I join with my colleagues in urging the Members of the House of Representatives to support the measure which comes to the floor with the unanimous support of the Committee on Interstate and Foreign Commerce which held hearings on the bill as advocated by the members of the Interstate Commerce Commission, at which time no amendments were suggested by anyone, and therefore in its simple uncontroversial form it should be passed today.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. WOLVERTON. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. ELLSWORTH].

Mr. ELLSWORTH. Mr. Chairman, I take this time not so much to argue for or to extol the virtues of this bill, which I think have been thoroughly explained. I think every one knows by now that this bill is not controversial in nature. But I thought it might be interesting, Mr. Chairman, to the membership of the House to give a word of explanation regarding the procedure of our Committee on Interstate and Foreign Commerce and describe the development and origin of a bill of this kind, and of this bill.

Under the rules of the House in force this year the Committee on Interstate and Foreign Commerce was not materially changed in its form from what it had been in previous years, but a new policy was adopted, a policy which has not been adopted or used by any other committee, and that policy was that all of the agencies, boards, commissions, and so forth, whose legislation our committee handles, have come before our committee in informal sessions for a discussion of the work of their organization, their legislation presently in existence, and in every case where it was possible we discussed with these boards, agencies, and commissions such legislation as might be pertinent to the activities of their organizations.

In the talks we have had with the several agencies I have been particularly and especially impressed with the fact that of all the agencies the Interstate Commerce Commission, the oldest, in fact, of all the independent agencies, is the one organization that came before our committee and said in so many words, "We operate only and strictly within the statute given us by Congress. We do not try to stretch it or do our own legislating. We simply stay within the law that Congress lays down."

Then it came before the committee recommending certain pieces of legislation which it thought would be beneficial to the country.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. LEA. Mr. Chairman, I yield two additional minutes to the gentleman from Oregon.

Mr. ELLSWORTH. We found in our discussions with some of the other agencies that we had to discuss with them rather frankly the fact that they have overstepped the bounds of existing statutes, and we had to ask them, "Why have you not suggested additional law if you feel that you should operate with that type of authority?" But not so with the Interstate Commerce Commission. They stay within the bounds.

They suggested this piece of legislation. They gave us adequate reasons why it should be enacted. They presented complete and satisfactory proof of its merits. The result is that a bill was drawn, complete hearings were held, and the bill was reported by our committee unanimously.

The bill will have the beneficial result, as has been described here many times this afternoon, of saving railroad companies from taking one of two disastrous choices, to go either into bankruptcy under the 77–B statute or into receivership, neither of which procedures is satisfactory in any respect.

This bill when enacted will allow the Interstate Commerce Commission to bring about an orderly reorganization without disrupting either the financial structure or the organizational structure of any railroad corporation. I strongly urge the passage of this bill. I feel certain there will be no objection to it on the floor here today.

Mr. WOLVERTON. Mr. Chairman, I yield the balance of my time to the gentleman from Connecticut [Mr. MILLER].

Mr. MILLER of Connecticut. Mr. Chairman, I realize there is little I can add to the explanation of the bill made by the members of the committee who have preceded me, but I do want to take just a minute or two to commend the ranking members of the Committee on Interstate and Foreign Commerce, the members on both sides of the aisle, for the consideration and assistance they have given to the 10 new members of that committee. They sat patiently through hearings listening to testimony that was very beneficial to the new members of the committee but with which they were very familiar. It has been a pleasure to work with that committee under the leadership we have had.

I should like to take just a brief minute to discuss the question of the amendments that have been suggested today by the gentleman from New York [Mr. RABIN]. The first thing that occurred to members of the Commerce Committee was that we wanted to be sure to protect minority interests among the bondholders of our railroads. That was discussed very fully in the committee. Mr. Mahaffie, of the ICC, was quite frank both on and off the record, in informal discussions, as to the wisdom of such a course.

I would remind you that many of the rulings that are now issued by the ICC are much more far reaching in their effect on the bondholders of our railroads than any agreement they might approve under this legislation, still this legislation provides for exactly the same review for any order issued under its authority by the ICC that is now provided in many other statutes relating to the ICC.

Mr. LEA. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MILLER].

Mr. MILLER of Connecticut. Mr. Chairman, I hope this Committee today will not in the limited time that is available to us try to amend this bill. The question raised by the Rabin amendment has been gone into thoroughly by the committee. As I believe has been stated, it had the unanimous support of the committee and there were no minority views filed. No one knows just what the delays might be if in our desire to aid minority interests we should further amend the bill.

There certainly is this danger, as has been shown in the testimony concerning voluntary reorganizations of this kind, as was effected in the case of the Maine Central and the Boston & Maine Railroads that with the desire to properly protect minority interests we sometimes accomplish simply this—that the so-called smart boys who insist on their pound of flesh get theirs to the detriment and to the disadvantage of the other bondholders.

I believe that with the court provisions which now apply to ICC rulings every bondholder is protected.

The CHAIRMAN. General debate has been concluded. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That it is hereby declared to be in aid of the national transportation policy of the Congress, as set forth in the preamble of the Interstate Commerce Act, as amended, in order to promote the public interest in avoiding the deterioration of service and the interruption of employment which inevitably attend the threat of financial difficulties and which follow upon financial collapse and in order to promote the public interest in increased stability of values of railroad securities with resulting greater confidence therein of investors, to assure, insofar as possible, continuity of sound financial condition of common carriers subject to part I of said act, and to enable said common carriers, insofar as possible, to avoid prospective financial difficulties, inability to meet debts as they mature, and insolvency. To assist in accomplishing these ends and because certain classes of the obligations of such carriers are in the usual case held by a very large number of holders, and, further, to enable modification and reformation of provisions of the aforesaid classes of obligations and of provisions of the instruments pursuant to which they are issued or by which they are secured in cases where such modification and reformation shall have become necessary or desirable in the public interest in order to avoid obstruction to or interference with the economical, efficient, and orderly conduct by such carriers of their affairs, it is deemed necessary to provide means, in the manner and with the safeguards herein provided, for the alteration and modification, without the assent of every holder thereof, of the provisions of such classes of obligations and of the instruments pursuant to which they are outstanding or by which they are secured.

Part I of the Interstate Commerce Act, as amended, is amended by adding after section 20a the following new section:

"20b (1). It shall be lawful (any express provision contained in any mortgage, indenture, deed of trust, or other instrument to the contrary notwithstanding), with the approval and authorization of the Commission, as provided in paragraph (2) hereof, for a carrier as defined in section 20a (1) of this part (other than a carrier in equity receivership or in process of reorganization under section 77 of the Bankruptcy Act) to alter or modify (a) any provision of any class or classes of its bonds, notes, debentures, or other evidences of indebtedness (whether secured, unsecured, matured, or unmatured) issued under any mortgage, indenture, deed of trust, or other instrument of like nature, such bonds, notes, debentures, or other evidences of indebtedness being hereinafter in this section sometimes called 'obligation'; (b) any provision of any mortgage, indenture, deed of trust, or other instrument pursuant to which any class of its obligations shall have been issued or by which any class of its obligations is secured: *Provided*, That the provisions of this section shall not apply to any equipment-trust certificates in respect of which a carrier is obligated, or to any evidences of indebtedness of a carrier the payment of which is secured in any manner solely by equipment, or to any instrument, whether an agreement, lease, conditional-sale agreement, or otherwise pursuant to which such equipment-trust certificates or such evidences of indebtedness shall have been issued or by which they are secured.

"(2) Whenever an alteration or modification is proposed under paragraph (1) hereof, the carrier seeking authority therefor shall, pursuant to such rules and regulations as the Commission shall prescribe, present an application to the Commission. Upon presentation of any such application, the Commission may, in its discretion, but need not, as a condition precedent to further consideration, require the applicant to secure assurances of assent to such alteration or modification by holders of such percentage of the aggregate principal amount outstanding of the obligations affected by such alteration or modification as the Commission shall in its discretion determine. If the Commission shall not require the applicant to secure any such assurance, or when such assurances as the Commission may require shall have been secured, the Commission shall set such application for public hearing and the carrier shall give such notice of such hearing in such manner, by advertisement, or otherwise, as the Commission may find practicable and may direct, to holders of such of its classes of securities and to such other persons in interest as the Commission shall determine to be appropriate and shall direct. If the Commission, after hearing, in addition to making (in any case where such alteration or modification involves an issuance of securities) the findings required by paragraph (2) of section 20a, shall find that, subject to such terms and conditions and with such amendments as it shall determine to be just and reasonable, the proposed alteration or modification—

"(a) is within the scope of paragraph (1);

"(b) will be in the public interest;

"(c) will be in the best interests of the carrier, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration; and

"(d) will not be adverse to the interests of any creditor of the carrier not affected by such modification or alteration,

then (unless the applicant carrier shall withdraw its application) the Commission shall cause the carrier, in such manner as it shall direct, to submit the proposed alteration or modification (with such terms, conditions, and amendments, if any) to the holders of each class of its obligations affected thereby, for acceptance or rejection. All letters, circulars, advertisements, and other communications, and all financial and statistical statements, or summaries thereof, to be used in soliciting the assents or the opposition of such holders shall, before being so used, be submitted to the Commission for its approval as to correctness and sufficiency of the material facts stated therein. If the Commission shall find that as a result of such submission the proposed alteration or modification has been assented to by the holders of at least 75 percent of the aggregate principal amount outstanding of each class of obligations affected thereby (or in any case where 75 percent thereof is held by fewer than 25 holders, such larger percentage, if any, as the Commission may determine to be just and reasonable and in the public interest), the Commission shall enter an order approving and authorizing the proposed alteration or modification upon the terms and conditions and with the amendments, if any, so determined to be just and reasonable. Such order shall make provision as to the time when such alteration or modification shall become and be binding, which may be upon publication of a declaration to that effect by the carrier, or otherwise, as the Commission may determine. Any alteration or modification which shall become and be binding pusuant to the approval and authority of the Commission hereunder shall be binding upon

each holder of any obligation of the carrier of each class affected by such alteration or modification, and upon any trustee or other party to any instrument under which any such class of obligations shall have been issued or by which it is secured, and when any alteration or modification shall become and be binding the rights of each such holder and of any such trustee or other party shall be correspondingly altered or modified.

"(3) For the purposes of this section a class of obligations shall be deemed to be affected by any modification or alteration proposed only (a) if a modification or alteration is proposed as to any provision of such class of obligations, or (b) if any modification or alteration is proposed as to any provision of any instrument pursuant to which such class of obligations shall have been issued or shall be secured: *Provided*, That in any case where more than one class of obligations shall have been issued and be outstanding or shall be secured pursuant to any instrument, any alteration or modification proposed as to any provision of such instrument which does not relate to all of the classes of obligations issued thereunder, shall be deemed to affect only the class or classes of obligations to which such alteration or modification is related. For the purpose of the finding of the Commission referred to in paragraph (2) of this section as to whether the required percentage of the aggregate principal amount outstanding of each class of obligations affected by any proposed alteration or modification has assented to the making of such alteration or modification, any obligation which secures any evidence or evidences of indebtedness of the carrier or of any company controlling or controlled by the carrier shall be deemed to be outstanding unless the Commission in its discretion determines that the proposed alteration or modification does not materially affect the interests of the holder or holders of the evidence or evidences of indebtedness secured by such obligation. Whenever any such pledged obligation is, for said purposes, to be deemed outstanding, assent in respect of such obligations, as to any proposed alteration or modification, may be given only (any express or implied provision in any mortgage, indenture, deed of trust, note, or other instrument to the contrary notwithstanding) as follows: (a) Where such obligation is pledged as security under a mortgage, indenture, deed of trust, or other instrument, pursuant to which any evidences of indebtedness are issued and outstanding, by the holders of a majority in principal amount of such evidences of indebtedness, or (b) where such obligation secures an evidence or evidences of indebtedness not issued pursuant to such a mortgage, indenture, deed of trust, or other instrument, by the holder or holders of such evidence or evidences of indebtedness; and in any such case the Commission, in addition to the submission referred to in paragraph (2) of this section, shall cause the carrier in such manner as it shall direct to submit the proposed alteration or modification (with such terms, conditions, and amendments, if any, as the Commission shall have determined to be just and reasonable) for acceptance or rejection, to the holders of the evidences of indebtedness issued and outstanding pursuant to such mortgage, indenture, deed of trust, or other instrument, or to the holder or holders of such evidence or evidences of indebtedness not so issued, and such proposed alteration or modification need not be submitted to the trustee of any such mortgage, indenture, deed of trust, or other instrument, but assent in respect of any such obligation shall be determined as hereinbefore in this section provided. For the purposes of this section an obligation or an evidence of indebtedness shall not be deemed to be outstanding if in the determination of the Commission the assent of the holder thereof to any proposed alteration or modification is within the control of the carrier or of any person or persons controlling the carrier.

"(4) (a) Any authorization and approval hereunder of any alteration or modification of a provision of any class of obligations of a carrier or of a provision of any instrument pursuant to which a class of obligations has been issued, or by which it is secured, shall be deemed to constitute authorization and approval of a corresponding alteration or modification of the obligation of any other carrier which has assumed liability in respect of such class of obligations as guarantor, endorser, surety, or otherwise: *Provided*, That such other carrier consents in writing to such alteration or modification of such class of obligations in respect of which it has assumed liability or of the instrument pursuant to which such class of obligations has been issued or by which it is secured and, such consent having been given, any such corresponding alteration or modification shall become effective, without other action, when the alteration or modification of such class of obligations or of such instrument shall become and be binding.

"(b) Any person who is liable or obligated contingently or otherwise on any class or classes of obligations issued by a carrier shall, with respect to such class or classes of obligations, for the purposes of this section, be deemed a carrier.

"(5) The authority conferred by this section shall be exclusive and plenary and any carrier, in respect of any alteration or modification authorized and approved by the Commission hereunder, shall have full power to make any such alterations or modification and to take any actions incidental or appropriate thereto, and may make any such alteration or modification and take any such actions, and any such alteration or modification may be made without securing the approval of the Commission under any other section of this act or other paragraph of this section, and without securing approval of any State authority, and any carrier and its officers and employees and any other persons, participating in the making of an alteration or modification approved and authorized under the provisions of this section or the taking of any such actions, shall be, and they hereby are, relieved from the operation of all restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to make and carry into effect the alteration or modification so approved and authorized in accordance with the conditions and with the amendments, if any, imposed by the Commission. Any power granted by this section to any carrier shall be deemed to be in addition to and in modification of its powers under its corporate charter or under the laws of any State. The provisions of this section shall not affect in any way the negotiability of any obligation of any carrier or of the obligation of any carrier which has assumed liability in respect thereto.

"(6) The Commission shall require periodical or special reports from each carrier which shall hereafter secure from the Commission approval and authorization of any alteration or modification under this section, which shall show, in such detail as the Commission may require, the action taken by the carrier in the making of such alteration or modification.

"(7) The provisions of this section are permissive and not mandatory and shall not require any carrier to obtain authorization and approval of the Commission hereunder for the making of any alteration or modification of any provision or any of its obligations or of any class thereof or of any provision of any mortgage, indenture, deed of trust, or other instrument, which it may be able lawfully to make in any other manner, whether by reason of provisions for the making of such alteration or modification in any such mortgage, indenture, deed of trust, or other instrument, or otherwise: *Provided*, That the provisions of paragraph (2) of section 20a, if applicable to such alteration or modification made otherwise than pursuant to the provisions of this section, shall continue to be so applicable.

"(8) The provisions of paragraph (6) of section 20a, except the provisions thereof in respect of hearings, shall apply to applications made under this section. In connection with any order entered by the Commission pursuant to paragraph (2) hereof, the Commission may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any such order, subject always to the requirements of said paragraph (2).

"(9) The provisions of subdivision (a) of section 14 of the Securities Exchange Act of 1934 shall not apply to any solicitation in connection with a proposed alteration or modification pursuant to this section.

"(10) The Commission shall have the power to make such rules and regulations appropriate to its administration of the provisions of this section as it shall deem necessary or desirable.

"(11) Any issuance of securities under this section which shall be found by the Commission to comply with the requirements of paragraph (2) of section 20a shall be deemed to be an issuance which is subject to the provisions of section 20a within the meaning of section 3 (a) (6) of the Securities Act of 1933, as amended. Section 5 of said Securities Act shall not apply to the issuance, sale, or exchange of certificates of deposit representing securities of, or claims against, any carrier which are issued by committees in proceedings under this section, and said certificates of deposit and transactions therein shall, for the purposes of said Securities Act, be deemed to be added to those exempted by sections 3 and 4, respectively, of said Securities Act."

Mr. WOLVERTON (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, that the bill be considered as read, be printed in the RECORD at this point, and be open for amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 25, strike out "20b (1)" and insert "SEC. 20b (1)."

The committee amendment was agreed to.

The Clerk read as follows:

Committee amendment: On page 4, line 17, strike out the word "such" and insert the word "reasonable."

The committee amendment was agreed to.

The Clerk read as follows:

Committee amendment: On page 4, line 18, after the word "by" insert "mail."

The committee amendment was agreed to.

Mr. RABIN. Mr. Chairman, I offer an amendment which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. RABIN: On page 6, line 7, after the word "Commission" insert a comma and the words "after having obtained the approval of a district court of the United States upon notice given in the same manner as provided in this paragraph for hearings before the Commission."

Mr. RABIN. Mr. Chairman, during the general debate I discussed this proposed amendment at some length. I do not wish to burden this committee with a repetition of my remarks. However, in view of the fact that so many Members are present now who were not present at the time I discussed the matter, I wish to say at the outset that this is a good bill. It is a step forward in the direction of railroad reorganization. But I do think we should add two safeguards to protect the rights of minority bondholders. The one safeguard that I shall discuss at this time, because that is the subject of this amendment, is the giving to the minority bondholder the right to have a decision of the Interstate Commerce Commission reviewed by the court, or rather to give him the right to have a plan accepted by the Interstate Commerce Commission reviewed by the court before it becomes effective.

As I said, I have a high regard for the Interstate Commerce Commission. I have a high regard for the courts, too. But the courts have procedures where the decision of the court may be reviewed.

You will be told that under the Interstate Commerce Act a review is possible at the present time. I say that the type of review that is granted under the interstate commerce law is not the type of review I have in mind, or the type of review contemplated by this amendment. This bill calls for the reorganization of bonds or securities of a railroad that is still solvent; not in bankruptcy; not in receivership; but a railroad that merely contemplates financial difficulties. The Interstate Commerce Commission will have the right to cut down, if it so chooses, with the consent of 75 percent, the principal of the bond owned by a bondholder; to extend the date of maturity; to reduce the amount of interest. That is giving it wide discretion. It is giving it important powers. It is giving it the right to breach a contract. It is giving it the right to modify a contract. I say, let the dissenting minority bondholder have the right to go to court, and permit the court to review not only for patent defects or arbitrary decisions, which is the only review that is now allowed under the law, but review that decision on the merits. Let the court determine whether the Commission exercised its powers reasonably and equitably.

We are told also that it would take too much time for such review. There is no excuse for the denial of justice because the administration of justice requires time or effort. And it would not take too much time. It only requires a motion. The time taken in reorganization is the agreement on the plan. Before this is taken to court, the plan will already have been agreed to. A decision will have been made by the Interstate Commerce Commission. Give the minority bondholders a few months at least—I do not think it would take that long—to have that decision reviewed on the merits. That is the least you can do for one who is having his contract modified, who is having some of his rights taken away from him. I do not think it is asking too much. It will safeguard the bill. It will make for progress. It will strengthen the possibility that this bill may be held constitutional.

Mr. KLEIN. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield.

Mr. KLEIN. I ask the gentleman, as chairman of the Mortgage Commission of the State of New York, did he not have a similar proposition which went to the court, and as a matter of fact, the Supreme Court of the United States upheld the constitutionality?

Mr. RABIN. That is right. I stated that in my general remarks. I did not want to bring it out particularly. In fact I reorganized 15,000 such mortgages within a period of 4 years where 250,000 bondholders were involved and a billion dollars of securities were reorganized with this provision, and we completed the job within 4 years, and my commission stepped out at its own request, having completed its job. Court approval did not delay that job.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Arkansas is recognized for 5 minutes.

Mr. HARRIS. Mr. Chairman, I refrained from taking any part in the debate because we seemed to have unanimity of opinion here as to the desirability of this legislation.

The gentleman from New York said he intended to offer two amendments. This is the first one. As I understand his position he is for the bill but thinks it is necessary that the two amendments he proposes be adopted by the Committee and the House.

Mr. Chairman, I have the greatest admiration and respect for the gentleman from New York. We know he has had many years of experience in dealing with matters of this kind because of his association and as a member of an outstanding law firm in New York City. I do, however, take issue with him on his proposed amendments.

In the first place, I do not believe the gentleman's proposal is practical. Even so, it is certainly a most unusual procedure in court. Here we propose to give the Interstate Commerce Commission certain authority with reference to the reorganization of the financial structure of railroads, and the gentleman from New York proposes in his amendment that even though the Commission may find after due procedure established in this proposed legislation that such a plan of modification or alteration is necessary before they can issue an order perfecting that plan it must be presented to a district court for approval. I say to you that would be an unusual procedure in court. It is not the right of appeal at all. It is in effect saying to the Interstate Commerce Commission that before it can issue an order affecting the alteration of modification of the financial structure of a railroad it must be submitted to a court of the United States and the approval of that court obtained; and then the Commission must say—now, listen to this—the Commission must say that the court is right so we will approve the order of the court. That is exactly what you have here as I see it.

I am very strongly for the protection of the minority interests, but I do not think we should permit a windfall for 15 or 20 percent of the holders of obligations of any corporation. That is what this amendment would do.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Pennsylvania.

Mr. WALTER. What would the situation be in the event that the Commission after careful deliberation concluded that the plan submitted was entirely proper and the only plan that was workable under the circumstances, and the court in substituting its judgment for that of the Commission should reach an entirely different conclusion?

Mr. HARRIS. As I see it, and in contravention of what the gentleman from New York said a while ago, if the matter were submitted to the district court and the district court heard it and gave its approval or its disapproval either of the parties to the litigation could appeal. That would necessarily bring about a long delay. If there is a real interest manifested, and a bona fide interest, I agree with him that a delay would certainly be justified.

I cannot see, however, the justification for saying that a matter must be heard by the Commission and determined on the basis of the facts presented, then submitted to the court, and the court rehear the whole matter again. Certainly you must presume that a court before it can give its approval or disapproval on any matter must have a hearing or at least it must be satisfied that it has information that will justify a decision.

Mr. Chairman, the amendment should be defeated. For the information of the Congress, I am including with my statement the questions asked Commissioner Mahaffie and his answers as contained in the hearings. This will, I believe, explain this matter briefly with the inclusion of a table as to the profits and deficits of class I railroads for the years of 1945 and 1946.

Mr. HARRIS. Mr. Commissioner, do I understand that this bill would apply to those cases that are not involved in bankruptcy, and is designed to permit them to reorganize to the extent that would likely prevent them from going into that?

Mr. MAHAFFIE. That is correct.

Mr. HARRIS. And the so-called Reed bill applied not only to those cases, but also to the cases presently in bankruptcy?

Mr. MAHAFFIE. That is correct.

Mr. HARRIS. Do I understand that the carrier must first make the application?

Mr. MAHAFFIE. That is correct.

Mr. HARRIS. For modifying, altering, or readjusting of notes, debentures, bonds, and so forth?

Mr. MAHAFFIE. That is correct.

Mr. HARRIS. And the Commission then will take up the application and hold hearings?

Mr. MAHAFFIE. Yes, sir; that is correct.

Mr. HARRIS. And then determine whether or not, from the Commission's point of view, the applications should be permitted to go ahead for consideration?

Mr. MAHAFFIE. That is correct, with this modification: The Commission may, on consideration of the plan proposed in the appli-

cation, modify it, and it would be that modified plan that then, if the carrier does not withdraw it, would go to the security holders for approval or rejection.

Mr. HARRIS. That is to the stockholders?

Mr. MAHAFFIE. The stockholders are not covered by this plan as far as the modification of their rights are concerned, in compulsory modification. This relates only to obligations.

Mr. HARRIS. To the bondholders?

Mr. MAHAFFIE. That is right. I may say that there might be such a modification as to bondholders as to affect some classes of stock, and therefore in this draft, unlike the first draft, which was 1,253, it is provided that the Commission must make a finding that the adjustment is not adverse to the interests of any class of stockholders, rather than as to the stockholders as a whole.

That is necessitated by the fact that there are sometimes preferred stockholders who have interests that are not the same as the common stockholders.

Mr. HARRIS. Are the bondholders under this procedure given any advantage, or is there any likelihood that they would be given any advantage over the stockholders?

Mr. MAHAFFIE. I can see no possible advantage to bondholders over the stockholders resulting from this legislation.

Mr. HARRIS. I believe the language of the bill reads that such proposal has been assented to by the holders of at least 75 percent of the aggregate principal amount outstanding of each class of obligations. Does that mean that 75 percent of each of the different classes of obligations must give their approval of it, and not 75 percent of all classes?

Mr. MAHAFFIE. Very definitely; 75 percent of each class affected.

Mr. HARRIS. I wanted to clarify that to be sure. That is the way I read the language of the bill.

Now, suppose that some of the 25 percent of the minority holders were to object. Then where would we be?

Mr. MAHAFFIE. They should present their reasons as to why it is unfair at the hearing before the Commission, and that is the thing that the Commission would have to consider, whether they made out a case that the modification should not be approved. If, after hearing them, the Commission made the findings prescribed, and then the 75 percent of the class affected voted favorably, that 25 percent, unless they found some defect in the procedure on which they could set aside our order in court, would be through, and it is precisely for the purpose of terminating the opposition of a minority, small minority, usually, of holders of a security, when you try to readjust it, that some such legislation as this is necessary.

Mr. HARRIS. It would be at that point that the Commission would be required to determine whether or not there was a constitutional question involved in any given proposal?

Mr. MAHAFFIE. The Commission would determine it before the vote. It would determine it before making its findings.

Mr. HARRIS. I share the views of the gentleman from California [Mr. LEA], that it seems to me like it could be a very serious question of constitutionality of the act. But I assume the Commission has given most careful thought to that particular question.

Mr. MAHAFFIE. We would have brought this forward many years ago, I think I may say, had we been convinced that it was a constitutional measure. I personally hesitated to suggest it as to the mortgages that we were approving until after the gold-clause decision by the Supreme Court. Then we began inserting it, or requiring it, in some of the mortgages.

Mr. HARRIS. When was that decision?

Mr. MAHAFFIE. I should say about 1935, but I am guessing.

Mr. HARRIS. And have you requested, or indicated, your desire for such legislation since that time?

Mr. MAHAFFIE. We began inserting a similar provision in mortgages that we approved in the reorganization of railroads, putting in a provision that the obligation might be adjusted with the consent of 75 percent of the security holders affected.

That raised the question initially and we worked on it a good deal, as to whether it was constitutional if Congress prescribed that as to existing mortgages, and as I say, we reached the conclusion that it was an appropriate measure for us to recommend to the Congress.

Mr. HARRIS. Question has been raised here with reference to the need for immediate action. I assume that the same need and desire exists as existed when you first recommended the legislation from the viewpoint of the Commission.

Mr. MAHAFFIE. Yes, sir; that is correct. It is not any sudden thought with us.

Mr. HARRIS. I assume the answer to the question on taking the other over-all measure in preference to this would be that inasmuch as there has been some difficulty arisen over that proposal, it would be better to get this proposal which a great many people say is desirable, if you cannot get all that some want in the other proposal, realizing, of course, the Commission has reported adversely on section 2 of that act.

Mr. MAHAFFIE. Yes, sir; that is correct. As to the first part of your question, I think that is particularly a question of congressional policy on which perhaps my opinion would not be especially helpful. We think this is desirable no matter what happens as to the roads now in reorganization.

Mr. HARRIS. Would you say it would be even more desirable now because of the probability of future difficulties in the railroad industry, in that they are having more difficulty than they did during the war when business was at a top?

Mr MAHAFFIE. Very much more urgent now than it was when we began urging it; yes, sir.

Mr. HARRIS. You mentioned a little while ago that there were 36 railroads operating on a deficit in 1946.

Mr. MAHAFFIE. Thirty-five.

Mr. HARRIS. In 1945 there were how many?

Mr. MAHAFFIE. Twenty-six. That is class I railroads. Of course, there are lots of smaller railroads that are not included in these figures.

Mr. HARRIS. I realize that.

For the benefit of the committee, and so that the record will be completed, is there any objection to including those railroads and what the deficit was in your statement?

Mr. MAHAFFIE. Not a particle, sir. Those matters are all public. The thing I hesitated to answer was as to railroads that might shortly need the benefit of this legislation. But as to those deficit figures, they are public, and they can be furnished to your committee. I have copies here, but not enough for your committee.

Mr. HARRIS. Those are likely to be the railroads that would need this legislation.

Mr. MAHAFFIE. Those are the most likely to need it, yes, sir; although you cannot always get it down to those limits because a railroad may need it on account of a maturing obligation even if it is making adequate earnings.

To go on with that a moment, there are about $3,000,000,000 fixed-interest obligations on the class I railroads. Those mature over the early period at the rate of approximately a quarter billion dollars a year. Whether or not maturities can be refunded, or refinanced, frequently depends not entirely on the earnings of the individual railroad, but on the general market condition. It is possible that such securities may be those of a railroad that is showing good earnings, but which might need the benefit of some provision such as this; in other words, to extend a maturity which it could not meet by payment in cash or by the sale of securities.

Mr. HARRIS. Mr. Chairman, I suggest that the information be included in the record. I believe it would be helpful to the committee, if there is no objection to it.

Mr. HOWELL. Commissioner Mahaffie has pointed out that the information with reference to deficit-operating railroads is already available, so I would see no objection to having that come into these committee hearings. But I think he properly pointed out that it might not be wise to include the names of the other roads who might be in need of this relief at some future time.

Mr. HARRIS. I did not ask that he include that specific information, but merely to see what railroads have been operating at a deficit in the last 2 years.

Mr. HOWELL. I see no reason why they should not be included.

Mr. MAHAFFIE. Mr. Chairman, I have that information here for the years 1946 and 1945, in a rather elaborate table. I do not know whether that is the form in which you could use it in your record. If it is, I could hand it to the reporter now.

Mr. HARRIS. Whichever you think is best. It would certainly be all right with us.

Mr. HOWELL. Mr. Harris, the committee will receive it, and determine the proper form in which to include it in this record.

Mr. HARRIS. Very well, Mr. Chairman.

(The information is as follows:)

Net income, by regions and districts, class I steam railways

FOR THE 2 MONTHS ENDED FEBRUARY 1947 AND 1946

Region and railway	Net income	
	1947	1946
United States, total	$43,633,019	$51,546,940
Eastern district, total	[1] 6,490,879	[1] 10,127,715
New England region, total	[1] 2,169,551	623,779
Bangor & Aroostook	309,340	292,319
Boston & Maine	95	259,792
Canadian National Lines in New England	[1] 165,588	[1] 212,957
Canadian Pacific Lines in Maine		
Canadian Pacific Lines in Vermont		
Central Vermont	[1] 263,267	[1] 346,716
Maine Connecting	149,995	178,958
New York Central	[1] 95,723	109,294
New York, New Haven & Hartford [2]	[1] 1,808,664	512,772
Rutland [2]	[1] 295,739	[1] 169,683
Great Lakes region, total	3,304,650	[1] 2,434,117
Ann Arbor	76,816	32,950
Cambria & Indiana	[1] 76,654	168,934
Delaware & Hudson	406,113	393,576
Delaware, Lackawanna & Western	55,606	233,383
Detroit & Mackinac	51,859	12,352
Detroit & Toledo Shore Line	201,974	88,921
Erie	226,596	[1] 1,762,630
Grand Trunk Western	[1] 375,603	[1] 1,079,617
Lehigh & Hudson River	71,948	50,936
Lehigh & New England	79,397	139,672
Lehigh Valley	213,056	291,621
Monongahela	227,371	185,082
Montour	128,155	92,861
New York Central [2]	[1] 1,574,911	[1] 2,639,238
New York, Chicago & St. Louis	1,368,014	546,993
New York, Ontario & Western [2]	[1] 384,170	[1] 437,722
New York, Susquehanna & Western [2]	[1] 79,399	[1] 71,714
Pere Marquette	372,217	211,903
Pittsburgh & Lake Erie	737,254	239,243
Pittsburg & Shawmut	44,114	12,614
Pittsburgh & West Virginia	89,551	[1] 55,457
Pittsburg, Shawmut & Northern [2]	[1] 26,543	[1] 40,683
Wabash	1,471,889	951,903

Footnotes at end of table.

Net income, by regions and districts, class I steam railways—Continued

FOR THE 2 MONTHS ENDED FEBRUARY 1947 AND 1946—continued

Region and railway	Net income	
	1947	1946
Central eastern region, total	$7,625,978	$8,317,377
Akron, Canton & Youngstown	112,637	28,394
Baltimore & Ohio	1,098,644	[1] 1,853,103
Bessemer & Lake Erie	265,192	[1] 203,667
Central R. R. of New Jersey [2]	[1] 926,500	[1] 1,243,576
Central R. R. of Pennsylvania	260,720	84,953
Chicago & Eastern Illinois	[1] 43,108	[1] 166,892
Chicago & Illinois Midland	192,216	103,410
Chicago, Indianapolis & Louisville	[1] 287,256	[1] 199,209
Detroit, Toledo & Ironton	579,284	269,993
Elgin, Joliet & Eastern	743,672	[1] 422,007
Illinois Terminal	156,353	91,765
Long Island	[1] 1,882,785	[1] 964,066
Missouri-Illinois	123,700	91,460
Pennsylvania	[1] 9,789,701	[1] 4,780,365
Pennsylvania-Reading Seashore Lines	932,016	[1] 874,685
Reading	[1] 1,239,340	830,746
Staten Island Rapid Transit	[1] 206,450	[1] 180,066
Western Maryland	711,544	600,266
Wheeling & Lake Erie	958,536	469,272
Southern District, total	25,093,385	27,344,412
Pocahontas region, total	13,761,051	14,400,938
Chesapeake & Ohio	6,509,873	6,359,310
Norfolk & Western	5,345,677	6,102,867
Richmond, Fredericksburg & Potomac	513,376	930,359
Virginian	1,392,125	1,008,402
Southern region, total	11,332,334	12,943,474
Alabama Great Southern	191,648	168,293
Atlanta & St. Andrews Bay	44,414	5,724
Atlanta & West Point	[1] 5,887	23,224
Atlantic Coast Line	2,476,069	2,212,572
Central of Georgia [2]	[1] 1,002,607	[1] 449,398
Charleston & Western Carolina	52,440	[1] 65,464
Cincinnati, New Orleans & Texas Pacific	571,066	401,718
Clinchfield	16,607	12,479
Columbus & Greenville	347,396	542,384
Florida East Coast [2]		
Georgia R. R., lessee organization		
Georgia & Florida [4]	[1] 140,824	[1] 142,140
Georgia Southern & Florida	26,077	78,344
Gulf, Mobile & Ohio	383,588	274,072
Illinois Central	2,336,418	2,329,220
Louisville & Nashville	2,535,228	3,825,031
Mississippi Central	6,801	[1] 13,692
Nashville, Chattanooga & St. Louis	103,380	263,800
New Orleans & Northeastern	209,276	161,212
Norfolk Southern	12,176	22,069
Seaboard Air Line	1,361,484	12,084
Southern	1,842,171	3,315,193
Tennessee Central	[1] 63,828	[1] 78,119
Western Ry. of Alabama	29,241	44,868
Western district, total	25,030,513	34,330,243
Northwestern region, total	[1] 3,546,095	[1] 1,095,444
Chicago & North Western	[1] 1,566,081	528,908
Chicago Great Western	33,112	[1] 346,855
Chicago, Milwaukee, St. Paul & Pacific	884,328	1,321,195
Chicago, St. Paul, Minneapolis & Omaha	[1] 426,322	[1] 582,780
Duluth, Missabe & Iron Range	[1] 2,003,717	[1] 1,786,502
Duluth, South Shore & Atlantic [2]	[1] 151,248	[1] 121,952
Duluth, Winnipeg & Pacific	[1] 49,308	[1] 39,857
Great Northern	[1] 494,931	311,861
Green Bay & Western	61,854	52,675
Lake Superior & Ishpeming	[1] 148,312	[1] 163,527
Minneapolis & St. Louis	283,054	115,040

Footnotes at end of table.

Net income, by regions and districts, class I steam railways—Continued

FOR THE 2 MONTHS ENDED FEBRUARY 1947 AND 1946—continued

Region and railway	Net income	
	1947	1946
Northwestern region—Con.		
Minneapolis, St. Paul & Sault Ste. Marie	[1] $315,065	[1] $383,408
Northern Pacific	780,186	567,159
Spokane International	3,272	1,513
Spokane, Portland & Seattle	[1] 349,751	[1] 510,223
Wisconsin Central [2] [5]	[1] 87,166	[1] 58,691
Central western region, total	21,481,083	27,720,619
Alton [2]	180,383	14,498
Atchison, Topeka & Santa Fe [5]	6,907,397	10,537,322
Chicago, Burlington & Quincy	5,703,091	7,791,764
Chicago, Rock Island & Pacific [2]	1,009,173	1,741,460
Colorado & Southern	40,888	11,404
Colorado & Wyoming	46,257	[1] 24,097
Denver & Rio Grande Western [2]	[1] 340,580	419,920
Denver & Salt Lake	199,768	67,185
Fort Worth & Denver City	44,683	35,110
Northwestern Pacific	[1] 137,749	[1] 539,722
Southern Pacific	1,091,425	43,817
Southern Pacific Transportation System [2]	5,703,318	4,412,651
Toledo, Peoria & Western [5]		
Union Pacific	6,731,631	6,666,669
Utah Railway	38,666	21,444
Western Pacific	[1] 33,958	933,845
Southwestern region, total	7,095,525	7,705,068
Beaumont, Sour Lake & Western [2]	295,372	439,821
Burlington-Rock Island	[1] 173,727	[1] 36,534
International-Great Northern [2]	[1] 426,064	14,044
Kansas City Southern	718,778	506,389
Kansas, Oklahoma & Gulf	177,560	118,934
Louisiana & Arkansas	354,338	200,670
Midland Valley	39,604	16,688
Missouri and Arkansas	[1] 30,403	[1] 47,039
Missouri-Kansas-Texas	214,808	893,021
Missouri Pacific [2]	1,670,881	1,752,653
New Orleans, Texas & Mexico [2]	77,352	205,755
Oklahoma City-Ada-Atoka	18,584	23,681
St. Louis, Brownsville & Mexico [2]	350,344	435,343
St. Louis-San Francisco	431,819	[1] 446,810
St. Louis, San Francisco & Texas	38,005	46,236
St. Louis Southwestern [2]	1,149,696	518,148
San Antonio, Uvalde & Gulf [2]	[1] 249,214	[1] 92,798
Texas & New Orleans	1,641,623	1,888,731
Texas & Pacific	729,980	1,226,156
Texas Mexican	66,189	41,979

FOR THE 12 MONTHS ENDED DECEMBER 1946 AND 1945

Region and railway	Net income	
	1946	1945
United States, total	$288,534,467	$446,761,553
Eastern district, total	824,234	117,658,240
New England region, total	[1] 6,604,411	3,681,342
Bangor & Aroostook	453,811	747,104
Boston & Maine	713,246	[1] 569,482
Canadian National Lines in New England	[1] 4,588	23,113
Canadian Pacific Lines in Maine		
Canadian Pacific Lines in Vermont		
Central Vermont	[1] 1,573,187	[1] 1,084,525
Maine Central	497,409	428,710
New York Connecting	280,395	1,178,806
New York, New Haven & Hartford [2]	[1] 6,365,788	3,596,689
Rutland [2]	[1] 605,709	[1] 639,073

Footnotes at end of table.

Net income, by regions and districts, class I steam railways—Continued

FOR THE 12 MONTHS ENDED DECEMBER 1946 AND 1945—continued

Region and railway	Net income	
	1946	1945
Great Lakes region, total	$1,823,235	$39,960,551
Ann Arbor	[1] 117,365	331,123
Cambria & Indiana	645,481	570,381
Delaware & Hudson	2,131,148	418,853
Delaware, Lackawanna & Western	36,216	[1] 3,292,145
Detroit & Mackinac	97,967	[1] 2,371
Detroit & Toledo Shore Line	466,317	457,501
Erie	2,994,724	5,797,185
Grand Trunk Western	[1] 6,123,690	82,497
Lehigh & Hudson River	260,404	175,218
Lehigh & New England	1,118,538	209,404
Lehigh Valley	108,103	[1] 7,562,105
Monongahela	473,590	607,177
Montour	472,291	664,017
New York Central [3]	[1] 10,449,268	24,412,525
New York, Chicago & St. Louis	5,567,790	8,083,229
New York, Susquehanna & Western [2]	[1] 3,018,515	[1] 2,630,327
Pere Marquette	[1] 642,559	38,014
Pittsburgh & Lake Erie	645,286	2,139,121
Pittsburg & Shawmut	3,661,346	3,572,242
Pittsburg & West Virginia	151,293	113,146
Pittsburgh, Shawmut & Northern [2]	[1] 45,523	584,613
Wabash	[1] 284,627	[1] 313,181
	3,674,288	5,504,434
Central eastern region, total	5,605,410	74,016,347
Akron, Canton & Youngstown	188,558	215,896
Baltimore & Ohio	2,648,709	8,660,319
Bessemer & Lake Erie	3,603,793	398,641
Central R. R. of New Jersey [2]	[1] 1,978,526	[1] 3,684,837
Central R. R. of Pennsylvania	948,924	[1] 2,752,600
Chicago & Eastern Illinois	[1] 517,902	1,052,452
Chicago & Illinois Midland	437,908	558,992
Chicago, Indianapolis & Louisville	[1] 1,101,222	367,057
Detroit, Toledo & Ironton	1,465,686	803,308
Elgin, Joliet & Eastern	1,475,231	657,631
Illinois Terminal	487,163	1,630,713
Long Island	[1] 1,188,076	857,579
Missouri-Illinois	680,380	446,533
Pennsylvania	[1] 8,530,317	49,008,238
Pennsylvania-Reading Seashore Lines	[1] 2,605,484	[1] 1,615,723
Reading	4,594,491	10,622,756
Staten Island Rapid Transit	[1] 823,250	[1] 230,357
Western Maryland	2,029,196	4,239,834
Wheeling & Lake Erie	3,790,148	2,749,915
Southern district, total	93,909,399	95,736,561
Pocahontas region, total	58,006,334	46,507,447
Chesapeake & Ohio	27,726,780	16,379,847
Norfolk & Western	23,727,676	23,533,680
Richmond, Fredericksburg & Potomac	3,376,923	2,346,426
Virginian	3,174,955	4,247,494
Southern region, total	35,903,065	49,229,114
Alabama Great Southern	1,563,290	2,206,770
Atlanta & West Point	109,106	353,305
Atlantic Coast Line	5,474,694	5,579,686
Central of Georgia [2]	[1] 3,563,626	[1] 777,544
Charleston & Western Carolina	[1] 272,009	283,335
Cincinnati, New Orleans, & Texas Pacific	2,256,644	2,320,929
Clinchfield	22,470	56,673
Columbus & Greenville	109,494	[1] 76,325
Florida East Coast [2]		
Georgia R. R.—lessee organization		
Georgia & Florida [4]	[1] 930,195	[1] 771,178
Georgia Southern & Florida	238,118	445,087
Gulf, Mobile & Ohio	1,473,947	1,384,112
Illinois Central	7,462,575	11,697,482
Louisville and Nashville	11,579,590	17,536,341
Mississippi Central	5,954	108,833
Nashville, Chattanooga & St. Louis	270,428	1,838,971

Footnotes at end of table.

Net income, by regions and districts, class I steam railways—Continued

FOR THE 12 MONTHS ENDED DECEMBER 1946 AND 1945—continued

Region and railway	Net income	
	1946	1945
Southern region—Con.		
New Orleans & Northeastern	$721,036	$797,645
Norfolk Southern	[1] 55,183	11,663
Seaboard Air Line	459,384	[1] 10,472,058
Southern	9,252,270	16,298,721
Tennessee Central	[1] 506,473	59,110
Western Ry. of Alabama	231,551	347,556
Western district, total	193,800,834	233,366,752
Northwestern region, total	49,824,460	78,259,158
Chicago & North Western	7,179,832	14,116,780
Chicago Great Western	173,488	799,609
Chicago, Milwaukee, St. Paul & Pacific	3,176,068	14,077,911
Chicago, St. Paul, Minn. & Omaha	[1] 1,363,100	889,986
Duluth, Missabe & Iron Range	8,358,602	14,397,338
Duluth, South Shore & Atlantic [2]	[1] 892,119	[1] 519,927
Duluth, Winnipeg & Pacific	[1] 523	401
Great Northern	23,457,001	24,157,590
Green Bay & Western	137,700	90,608
Lake Superior & Ishpeming	298,779	884,568
Minneapolis & St. Louis	439,288	574,040
Minneapolis, St. Paul & Sault Ste. Marie	154,188	1,754,433
Northern Pacific	8,881,146	11,559,860
Spokane International	101,620	138,083
Spokane, Portland and Seattle	[1] 1,160,478	[1] 2,959,433
Wisconsin Central [3] [2]	882,968	[1] 1,702,689
Central western region, total	105,417,406	110,063,902
Alton [2]	367,999	573,29[illegible]
Atchison, Topeka & Santa Fe	39,015,17[illegible]	29,414,500
Chicago, Burlington & Quincy	23,102,77[illegible]	27,405,399
Chicago, Rock Island & Pacific [2]	3,679,068	7,023,987
Colorado & Southern	7,901	1,803,802
Colorado & Wyoming	183,167	158,964
Denver & Rio Grande Western [2]	[1] 4,079,889	[1] 7,139,492
Denver & Salt Lake	498	51,490
Fort Worth & Denver City	[1] 245,608	[1] 20,254
Northwestern Pacific	[1] 2,160,813	[1] 1,105,107
Southern Pacific	11,551,165	14,854,235
Southern Pacific Transportation System [5]	25,281,106	33,105,440
Toledo, Peoria & Western [6]		
Union Pacific	30,431,603	33,031,580
Utah	14,112	105,932
Western Pacific	3,550,251	3,905,567
Southwestern region, total	38,558,968	45,043,69[illegible]
Beaumont, Sour Lake & Western [2]	1,595,113	792,244
Burlington-Rock Island	[1] 795,716	[1] 105,746
International-Great Northern [2]	[1] 2,200,494	545,807
Kansas City Southern	3,680,194	5,616,864
Kansas, Oklahoma & Gulf	616,077	712,147
Louisiana & Arkansas	1,635,721	1,693,031
Midland Valley	41,757	78,563
Missouri & Arkansas	[1] 192,580	[1] 319,196
Missouri-Kansas-Texas	1,715,447	5,867,599
Missouri Pacific [2]	6,309,123	7,327,909
New Orleans, Texas & Mexico [7]	2,689,455	[1] 471,716
Oklahoma City-Ada-Atoka	24,797	147,131
St. Louis, Brownsville & Mexico [2]	692,406	896,338
St. Louis-San Francisco [2]	2,252,249	1,136,031
St. Louis, San Francisco & Texas	[1] 4,768	211,809
St. Louis Southwestern [2]	4,665,669	3,993,006
San Antonio, Uvalde & Gulf [2]	[1] 833,443	[1] 878,670
Texas & New Orleans	11,060,295	10,431,090
Texas & Pacific	5,435,135	7,243,162
Texas Mexican	172,531	126,289

[1] Deficit or other reverse item.
[2] Report of trustee or trustees.
[3] Includes Boston & Albany, lessor to New York Central R. R.
[4] Report of receiver or receivers.
[5] Formerly included in report of Minneapolis, St. Paul & Sault Ste. Marie.
[6] Includes Atchison, Topeka & Santa Fe Ry., Gulf, Colorado & Santa Fe Ry., and Panhandle & Santa Fe Ry.
[7] Data not included in totals. Includes Southern Pacific Co., Texas & New Orleans R. R. Co., and leased lines.
[8] Federal manager's operations terminated 12:01 a. m., October 1, 1945. Filed no report.

Analysis of net income—all class I railways [1]

Period	Railways reporting a net income		Railways reporting a net deficit	
	Number of reports	Amount	Number of reports	Amount
February 1947	86	$32,095,271	40	$17,713,725
February 1946	78	37,824,223	48	15,887,911
2 months 1947	87	71,043,838	39	27,410,819
2 months 1946	86	75,180,601	40	23,633,661
December 1946	85	99,777,558	40	11,002,435
December 1945	53	38,789,546	72	117,354,337
12 months 1946	90	353,767,080	35	65,232,613
12 months 1945	99	498,457,614	26	51,696,061

[1] Excludes reports of 4 roads whose net income (or deficit) was absorbed by the controlling company.

Mr. MAHAFFIE. I have a similar statement, identified as statement M–125, through February 1947 showing the earnings of the class I railroads and the same figures for those 2 months, compared with the similar 2 months in the year 1946, which can be furnished to the committee very readily, if you would like that.

Mr. HARRIS. Just one other question.

Is it your belief that this policy statement in any way materially affects the transportation policy of 1940 as set out in the first section of that act?

Mr. MAHAFFIE. No, sir. I think it in no way affects it, because the 1940 policy statement does not relate particularly to the solvency situation that we are discussing here.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WOLVERTON. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, without in any way questioning the good intentions of the gentleman from New York who has offered the pending amendment and for whom I have the highest regard, I must say in all sincerity that if the amendment is adopted it will destroy the very purpose of the bill. As has been so ably pointed out by the gentleman from Arkansas [Mr. HARRIS] the effect of the amendment would only prolong the proceedings. It would create delay, time upon time, expense upon expense.

If those of you who are not familiar with the bill will read its pages, you will see that every protection has been given to all interested parties that any reasonable person could expect.

Mr. CARROLL. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Colorado.

Mr. CARROLL. Does the gentleman make the point that under this proposed legislation there is no right of appeal?

Mr. WOLVERTON. I do not. I contend for the opposite viewpoint, namely, that there is adequate right of appeal.

Mr. CARROLL. There is the right of appeal?

Mr. WOLVERTON. Yes.

Mr. CARROLL. How does that differ from the right of appeal that the gentleman from New York has suggested?

Mr. WOLVERTON. If the gentleman heard the argument made by the gentleman from Arkansas [Mr. HARRIS] he would have realized that the proposed amendment would result, practically speaking, in two hearings. I want to point out further to the gentleman in answer to his inquiry that there is nothing in this bill which destroys or limits in any way the right of appeal that any aggrieved person or allegedly aggrieved party might have to any order that has been made by the Interstate Commerce Commission.

Mr. CARROLL. It occurs to me that what we have done here is transfer under 77B of the Bankruptcy Act from the court the matter and place it in an administrative agency; then the right of appeal is limited to arbitrary and capricious rulings. As I understand the gentleman from New York, he is asking for an appeal upon the merits. I read to the gentleman from the report:

> The railroads have been through a period of expanded revenues and earnings occasioned by the war traffic.

We see in the legislation a particular type or class of obligation. Now I ask the question whether or not those class obligations are new issues or old issues? I was not in this country. I do not know. I was overseas. Were the new issues resulting during the war to aid the financing of the railroads or are we talking about old obligations?

Mr. WOLVERTON. We are talking about all existing obligations, old or new.

Mr. CARROLL. Necessarily under this act you would not have to affect all obligations; you would affect only the obligations of a particular class; is that not so?

Mr. WOLVERTON. Well, that would depend on the particular case.

Mr. CARROLL. I am just wondering. As I say, I have no conviction on this bill, and I ask the question whether or not it would seriously injure this legislation if minority bondholders could go to the courts on the merits.

Mr. WOLVERTON. The purpose of this legislation is to meet those situations where, looking into the immediate future, there is every indication that the railroad company will be unable to meet its obligations either resulting from maturity of the obligation or from lack of sufficient revenue to pay the interest charges. That is an immediate situation confronting that company. The purpose of this bill in situations such as that is to provide a means by which the interested parties may meet the situation by adjustment of maturity date, rate of interest, or otherwise, and thus bring a quick settlement of the emergency in a manner that will tide them over the serious situation that they are facing.

Mr. CARROLL. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. WOLVERTON. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. WOLVERTON. The premise on which the gentleman based his question would indicate that he had in mind that this was a proceeding in a bankruptcy matter.

Mr. CARROLL. No. I had in mind that this was one that precedes a proceeding in bankruptcy. As I understand this legislation, the railroad does not have to be insolvent; it only has to manifest a danger of insolvency or expression of insolvency.

Mr. WOLVERTON. That is right. In fact, if it was insolvent, it would have to come under 77B of the Bankruptcy Act or institute receivership proceedings.

Mr. CARROLL. It seems to me there might be certain dangers in a class of obligations whereby they could express their danger and say, "We want to reorganize." It is true that there are safeguards under the ICC, but nevertheless it does not give a minority stockholder a right of a rehearing on the merits in a court of law. He is bound by an administrative ruling which necessarily limits his right to a judicial review.

Mr. WOLVERTON. Of course, if it is the idea of the gentleman that the ICC or the SEC or the FPC or the FTC or any other agency of Government that has been set up for the purpose of passing on matters within its particular jurisdiction cannot be trusted, and that therefore there must be a court proceeding preliminary to their entering an order and wherein the court will have a hearing of its own and must first approve the proposal and then tell the Commission that its order is approved, you might as well abolish either court or the Commission. There is no sense, in my judgment, in having such duplication. The proceedings in this case, in the first instance, provide every precaution that I think any one could reasonably expect. In the first place, when an application is made, under the provisions of this bill, the Commission can require a percentage of the bondholders, or the other interested parties, to give their assent; before it will entertain the application. The Commission does not have to do so in the original instance, but it can. The discretion is given if it wishes to exercise it. When the application has been presented to the Commission and shown to come within the provisions of this act, then the Comission is directed to hold a hearing. It must then determine from that hearing that the proposal is in the public interest. It must also find, that it will be in the public interest, and for the best interest of the carrier, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration.

In the final analysis, they must find that it will not be adverse to the interest of any creditor of the carrier not affected by such modification or alteration. Thus, you can see that this bill provides that the Interstate Commerce Commission must take into consideration all of the interests, numerous and various though they may be, even conflicting. It is only then, when they have found all of these basic elements to exist, that it can give its approval and authorize the submission of the proposal to the interested parties. It must be shown that 75 percent approve before the order becomes effective. In soliciting the assents, the communications that are sent out by the applicant company must also first be submitted to the ICC and have its approval. When all of that has been done, and when there has been an acceptance or approval of the proposal by at least 75 percent, even then, if an individual who did not assent feels aggrieved and feels that the judgment of the ICC and of the 75 percent is all wrong and that his interest is paramount to the interest of the public and all the classes of obligations and stockholders who have approved, he still, under the act, can ask for a review by the court.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. WOLVERTON. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. WOLVERTON. Let us consider something that is far more important than the mere question of values in dollars: material value. Let us take the case of a trial where the defendant is answering a charge of murder. Who determines the facts? A jury of 12 individuals. When those 12 individuals have spoken and found a verdict of guilty, if the defendant feels he is aggrieved, what are his rights? He has a right to appeal, but he does not have a right to a retrial of the case by the appellate court. I know of no such procedure anywhere. The appellate court passes upon the record as made in the trial court. The appellate court decides whether the rights of the defendant have been properly regarded and respected. If the court of review finds any mistake in the record of the case, it can order a retrial. In the proceedings under this proposed bill the principle is no different. The party has his right of appeal to the court, and the court looks over the record made below by the ICC and passes upon whether it is right or wrong. That procedure has been followed in all matters of orders made by the ICC ever since it has been in existence. That has been the procedure in all these years.

Furthermore, this amendment would require court approval before the plan can become effective.

Such prior court approval is not necessary under a statute where Congress exercises its paramount authority to regulate interstate commerce. The bill recognizes paramount public interest in an adequate transportation service by railroad systems which are strong financially. The provisions in the Constitution against impairment of obligation of contracts apply only to legislation by the States and not legislation enacted by Congress pursuant to its authority to regulate interstate commerce.

Any requirement for prior court approval would be detrimental to the public interest and to the interest of carriers and their creditors because exceedingly long delays would be involved and such procedure would impose upon carriers and creditors a heavy burden of expense. One of the prime purposes of the bill is to avoid such burdens and such delays.

Any creditor would have due notice of hearings before the Commission and will be permitted to intervene before the Commission. He has such right to intervene under the law. In the event he should not be satisfied with the plan as approved by the Commission he may appeal to the courts. The courts, of course, will protect all his legal rights in any such proceeding.

Such right of appeal to the courts is the same right which any other person objecting to an order of the Commission may pursue. It fully satisfies all the legal requirements.

Mr. CARROLL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do not profess to know a great deal about this legislation, but I have listened with a great deal of interest to the debate. In attempting to answer the gentleman's explanation of the difference in the right of review, may I say that that review from the ruling of an administrative agency, is very much limited in law from the right of a judicial review.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. CARROLL. I yield to the gentleman from Pennsylvania.

Mr. WALTER. The rule as laid down in the Administrative Procedure Act follows the rule as stated by the Supreme Court in the Consolidated Edison case. There, the Court held that the finding must be based on substantial evidence, and that a mere scintilla was not sufficient in order to sustain the finding of the agency.

Mr. CARROLL. That is right. Of course, we can say that the Commission has had the facts before it and the Commission, has made a finding upon those facts. This is the old rule of administrative law that unless there has been some arbitrary and capricious action on the part of the board the court will not reverse the finding. I say to any lawyer here that there is a great difference between that and a full judicial review.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. CARROLL. I yield.

Mr. O'HARA. Let me say I do not think we should go into the question of capriciousness in this appeal.

Mr. CARROLL. Let us confine it to arbitrariness.

Mr. O'HARA. May I say this to the gentleman—that obviously under the bill which we are considering, the first thing that would have to be determined is whether or not 75 percent or more of the bondholders agree. That is a simple question of fact which, if the Interstate Commerce Commission were in error, would be reversible. That is, for example, if they did not find that it would be in the public interest; or it would be in the best interests of the carrier of each class of its stockholders and of the holders of each class of its obligations affected by such modification or alteration; or that it would not be adverse to any creditor of the carrier not affected by such modification or alteration.

Those are the provisions of the bill. If the Commission is in error on any one of those things, I believe it would be reversed by the court on appeal.

Mr. CARROLL. Yes, but I make this point, however. You see, we are dealing with a situation here which I think is pretty strange in law. There is no emergency here. This is a contemplated emergency, something which may arise. We are not dealing now with a situation that is similar to that in the bankruptcy act under section 77-B. Under this legislation they are now saying we apprehend that we will be running into economic difficulty; therefore, we ask the right to reorganize voluntarily.

Now, that raises the question here of what we mean by public interest. This is an economic condition—the economic facts are presented to the Commission and to the 75 percent of the bondholders. When that Commission makes a finding on the economic report and the economic conditions, unless it is arbitrary, and that is, of course, a word that the courts have strained to get away from, then the minority bondholders are bound by that. That would not be so found in a hearing on the merits as a matter of law.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. CARROLL. I yield.

Mr. O'HARA. May I say that I share the same concern as my distinguished friend, the gentleman from New York, and the gentleman now speaking.

Mr. CARROLL. I might say to the gentleman that I am not a bond lawyer.

Mr. O'HARA. I am not either, but I have interested myself in this thing and I am a little concerned about it, as my friend, the gentleman from New York, knows.

I have come to the conclusion that those things are the only things that we can test on an appeal in these proceedings. I am informed, and I know a little about it, that in the McLaughlin Act these tests have been sustained by the courts.

I might say to the gentleman, I share the general concern for the minority groups, but I do not see how we can further protect them in the matter of an appeal.

Mr. CARROLL. Of course, I would certainly be willing to go along with you. I do not think we ought to in any way befriend those groups that want to interfere with legitimate reorganizations.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. CARROLL. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. CARROLL. Mr. Chairman, the people of Denver are quite familiar with the uphill fight that a certain railroad in that territory has been waging to reorganize in order to operate at its maximum efficiency. This reorganization has been going on for a period of years, at great trouble and expense to those interested in reorganization. I shall not attempt to comment upon the position taken by the various groups interested in that controversy, except to say that that type of litigation ought to end sometime and should not continue on and on for years. It has been stated on the floor of the House today that the legislation before us will expedite voluntary reorganization programs. With that principle I am in full accord. It occurs to me, however, that, in the interest of expedition, we must not overlook another very important fundamental principle, that of protecting the full legal rights of minority bondholders. Clearly every investor has a right to his day in court.

The gentleman from New York [Mr. RABIN], who has had considerable experience with this sort of thing, indicates that his amendment will materially strengthen this bill in that respect. He has stated that in the event of a voluntary reorganization agreed to by 75 percent of the bondholders, that the remaining 25 percent, if they so desire, are entitled to a judicial review from the findings of the Interstate Commerce Commission, and that such review should not result in prolonged, expensive litigation. The amendment seems to be entirely reasonable, and is certainly consistent with well-established rules of law. We must keep in mind that this is novel legislation. This is a departure from 77B of the Bankruptcy Act in that voluntary reorganization may take place, not because of bankruptcy but in anticipation of insolvency.

I have presented here only the issues involved in this debate. However, no real consideration has been given to the constitutionality of this legislation. I seriously doubt whether this bill meets the constitutional requirements of due process.

Mr. O'HARA. I appreciate what the gentleman has said. On the other hand, if we follow the purpose of this act, for a speedy reorganization, and keep away from bankruptcy, I am frank to say to the gentleman that I cannot prophesy what might happen. If we follow the spirit of this act, I think the concern which the gentleman has will be dissipated. If he is right, then I am as much concerned as he is. But let us see how this works out. That is my hope on this thing. If it does not work out fairly in the interest of all, then I say to the gentleman we should certainly change it.

Mr. CARROLL. There may be something in your position.

The CHAIRMAN. The time of the gentleman from Colorado [Mr. CARROLL] has expired.

Mr. KLEIN. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I simply want to point out to the committee the fact that we can base our decision on whether to vote for this amendment or not, on what has actually happened; not what we think might happen. We have a law in New York State which is very similar to this. Our law on real estate reorganizations has a similar clause in it, similar to what the gentleman from New York [Mr. RABIN] would accomplish by his amendment. That simply provides that the court must approve the reorganization before it becomes effective. Our experience has been that in such proceedings it takes very little time to obtain the Court's approval. You simply make a motion in the equity part of Supreme Court. The judge does not hear the case all over again. He simply takes the papers, reads the record before the Commission and the lawyers for all parties concerned argue before the court. We have had cases that the court has decided in 20 minutes, on issues which may have been as involved as are those which are contemplated by this law. I cannot see what objection anybody can have to placing in the law this additional safeguard. Mention has been made of the fact that we would have to have two hearings. Technically, you have to have two hearings in any appeal. But actually, in proceedings such as these, it would simply mean that the court would read the record of the proceedings before the Commission. Whatever objections are made can be brought to the attention of the court, and a decision rendered immediately.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. KLEIN. I yield to the gentleman from Arkansas.

Mr. HARRIS. Under the suggested legislation it may not be submitted to the court.

Mr. KLEIN. That is correct.

Mr. HARRIS. But under the amendment it would be required to be submitted.

Mr. KLEIN. But it is still better to have that additional safeguard. The court might not take any time at all, if it is a good plan, and it probably would be. It would seem to me that we would be engendering in the minds of investors in such securities a feeling of security by letting them know that their interests will be amply protected, not only by the Interstate Commerce Commission, but that they have an additional safeguard in the right of appeal to the court for its approval.

Mr. RABIN. Mr. Chairman, will the gentleman yield?

Mr. KLEIN. I yield.

Mr. RABIN. Even though it may be required, if there is no objection to the plan there will be no appeal.

Mr. KLEIN. That is it. The court automatically will affirm it.

The CHAIRMAN. The time of the gentleman from New York [Mr. KLEIN] has expired.

The question recurs on the amendment offered by the gentleman from New York [Mr. RABIN].

The question was taken; and on a division (demanded by Mr. RABIN) there were—ayes 25, noes 75.

So the amendment was rejected.

Mr. RABIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RABIN: On page 6, line 24, after the word "modified", strike out the period and insert ", except that if such alteration or modification shall become effective, it shall be without prejudice to the right of any particular holder, who has duly dissented to the proposed alteration or modification, to have the Commission, [subject to approval of a district court of the United States,] determine the cash value of such

securities as he may have owned on or before the date of the submission of the application by the carrier to the Commission pursuant to this paragraph, and to provide for the payment or securing of such amount."

Mr. RABIN. Mr. Chairman, in view of the last vote by the committee I would be willing to leave out of this proposal the phrase "subject to the approval of the District Court of the United States." We can take that out of this amendment.

Now, here we have an amendment that is not going to delay the reorganization at all, not the slightest, because this does not apply until after the plan has become effective; until after the reorganization has gone through.

I ask that this amendment be adopted in the interest of the minority bondholders; bondholders who cannot see their way clear to go along with the plan. As I pointed out, a bondholder has a contract to get his money paid at the date of maturity 100 cents on the dollar with a certain rate of interest. A plan under this bill may modify and alter that contract. It may cut him down to 50 cents on the dollar, may cut him down to 2 percent interest instead of 4 percent, and the date of maturity may be extended to 4 years instead of 1, or 20 years instead of 1.

I have no objection to those provisions because that is the spirit of the bill, but I do say that, if a minority bondholder does not want to go along with it, if he does not want his contract impaired, he should have a right to protection provided that that protection will not prevent the plan from going through, and that he cannot use the protection we give him to strike against the plan, and that he cannot use that protecion we give him to embarrass reorganization, and that he cannot insist on a hundred cents on the dollar, and he cannot insist on having every pound of flesh and every drop of blood.

This amendment will do that because it provides that he be given not a hundred cents on the dollar but merely that his security be appraised at the present market value.

Mr. LESINSKI. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield.

Mr. LESINSKI. I wish to ask the gentleman this question: The gentleman talks about minority bondholders. Suppose a person went out on the market and picked up a bond at 5 cents on the dollar. Would he not be entitled to 100 cents on the dollar under this plan?

Mr. RABIN. No; assuredly not. I am not asking that he get a hundred cents on the dollar.

Mr. LESINSKI. But I understood the gentleman to say that the minority bondholder should be entitled to a hundred cents on the dollar.

Mr. RABIN. The gentleman misunderstood me. I did not say he was entitled to ask for a hundred cents on the dollar.

Mr. LESINSKI. The gentleman realizes that a lot of bonds sold on the market may not be worth a nickel.

Mr. RABIN. If he were to be entitled to a hundred cents on the dollar under my purpose then I would ask you to vote against this amendment. I do not ask that. I ask simply that the value of his bonds be appraised. I have not asked that it be paid in cash because I realize that it might embarrass the reorganization to ask cash payment for some railroads may not have the cash to pay. I simply ask that the value of his bonds be fixed as of the date of the reorganization provided he owns the bonds on or before the reorganization commenced; and I ask that he be given some security, that the ICC give him some security to make sure that he gets the value that is fixed, and the amount is to be fixed by the ICC. I am not asking too much. It is not asking too much for a man whose contract has been impaired. It is asking the minimum.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. RABIN. I yield to the gentleman from Arkansas.

Mr. HARRIS. Would not the 25 percent, or the minority bondholders, have the same status as the 75 percent, or whatever larger percent might request modification or alteration?

Mr. RABIN. Would they have the same status?

Mr. HARRIS. Yes.

Mr. RABIN. I am talking about the bondholders who do not want that status.

Mr. HARRIS. They have the right to be protected just as the other 75 percent who are requesting the modification or alteration.

Mr. RABIN. The 75-percent consent; they get what they want; they voted for it. The minority are in a different class. They do not get what they want because they are voting against it. They do not get protection after the House passes this bill.

Mr. HARRIS. Do they not get the same thing under the Commission's order?

Mr. RABIN. They get what they do not want.

Mr. HARRIS. I disagree with the gentleman.

Mr. RABIN. They get the same thing, but they do not want it.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. RABIN. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RABIN. Mr. Chairman, why take my $1,000 bond and against my will give me 50 cents on the dollar and say, "You have got to take it whether you like it or not." I do not ask for the thousand. I say, "I do not want that 50 percent. Give me the value as of today," and do not pay it today, either. Pay it when the ICC says it should be paid. Let me say if you put this through it will save this bill in court.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. PRIEST. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, it is with some reluctance that I rise to oppose the amendment offered by the gentleman from New York. All of us on the committee have a great deal of respect for his legal ability, and personally I have referred to him many times as my legal counsel on the committee. I believe, however, that the amendment he now offers in effect would be an amendment which, if adopted, would result in discriminatory legislation greatly favoring dissenting minority bondholders.

The gentleman from Arkansas [Mr. HARRIS] in asking the question a moment ago put his finger on the logic in this situation when he asked if all security holders did not have the same rights under the provisions contained in the bill.

I do not care to prolong the debate on this matter, but I wish to call attention to page 26 of the hearings very briefly, in which there is a specific instance related by Commissioner Mahaffie that I think is applicable to the proposal of the distinguished gentleman from New York.

Mr. Mahaffie said in response to a question asked by the gentleman from Maine [Mr. HALE], a member of the committee:

> Some years ago the Maine Central had a maturity, as I recall, of about $10,000,000. It could not meet it by any refinancing, but its earnings were sufficient to make it reasonably sure that it could continue to pay the interest on that obligation. The Maine Central went to its security holder, and, as I recall, got somewhere between 80 and 90 percent to consent to an extension of that maturity on the basis of continuing the interest payment at the coupon rate. It had to pay off the 10 or 15 percent who would not consent, and the fact that it had to pay them off made those who were inclined to go along somewhat recluctant to do it, though ultimately enough of them went along so that the railroad was able to put up the money to pay off the dissenters.
>
> The majority, as I say, hesitated to do it because they did not like to see some of their coholders preferred over them by getting their money in full.

Then Commissioner Mahaffie related that the Boston & Maine had a similar difficulty in 1940.

Mr. Chairman, I submit to my distinguished friend from New York that the adoption of his amendment in any case under this proposed reorganization plan would produce similar situations and would greatly favor and place in a preferred class the minority dissenters.

Mr. RABIN. The object of my amendment is to prevent just such things as the gentleman refers to, because in the first place the plan can go through without his consent. Secondly, he does not get 100 percent on the dollar. He gets what the ICC wants to pay him. Third, he does not get it in cash. He gets that which the ICC wants to give him. Fourth, he does not get it as a condition precedent to the plan going through. He gets it when the ICC wants to give it to him.

Mr. PRIEST. I believe my good friend will agree with me, however, that it does place him in a preferred status and that therefore it is discriminatory legislation.

Mr. Chairman, I hope that the amendment will be voted down.

Mr. WOLVERTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it seems to me that the passage of an amendment of this char-

acter is creating a nuisance value. I cannot see it in any other way. This amendment is offered from the standpoint of protecting the individual. While I have no doubt as to the good faith of those who offer the amendment in a sincere desire to protect what they believe to be the interest of a minority party, yet the fact remains under a similar law, the McLaughlin Act, which was chapter 15 of Chandler Bankruptcy Act, and in force for several years, there was no such provision in that act as now offered by the gentleman from New York. That act similar to this proposed law was in effect for many years. No question such as has been raised here as to a possible loss by some individual ever was raised in the administration of that act.

But, there is a further and a very controlling objection. It would seem to me, and that arises from the fact that the emphasis that is placed upon the right of an individual overlooks entirely the fact that the public has an interest. Every proposal is submitted and approval given on the basis that the public interest is to be served. The Commission must find that it is to the benefit of the public as well as all the other classes of security holders. In this connection, I call to your attention the language of the Court in the case of *Burton* v. *Barbour* (104 U. S.). The Court said:

> The public retains rights of vast consequence in the road and its appendages in which neither the company or any creditor or mortgagee can interfere. They take their rights subject to the rights of the public and must be content to enjoy them in subordination thereto.

In other words, the controlling consideration is the public interest. The public interest requires a continuing transportation system, and whether it continues or not depends upon the strength of its financial structure. As soon as you permit individuals to interfere with that public interest, such as has been argued here, then you are working against the public interest and doing that which is detrimental to the public interest.

The amendment would require a cash payment to any dissenting creditor which would be determined by the cash value of his interest.

Congress, acting pursuant to its paramount authority to regulate interstate commerce, is not bound by the constitutional provision with reference to impairment of the obligation of contracts. Such constitutional provision applies only to the States.

Under the bill the rights of all creditors affected would be determined by the vote of 75 percent of such creditors, and in addition the plan after a full hearing before the Commission would have to be approved by the Commission. It would entirely defeat the purposes of the bill if any dissenter should be given the right to demand cash payments as this amendment would propose.

Where a plan is proposed under the bill the question to be determined is whether or not the public interest and the interests of all the creditors as a whole would be better served by the carrying out of the plan or by a bankruptcy proceeding or a receivership proceeding if the plan should not be carried out. In the event of a bankruptcy proceeding or a receivership proceeding, the creditors very likely would lose a great deal more in interest than they would otherwise give up in the event a voluntary plan was approved by 75 percent of the creditors and also by the Interstate Commerce Commission.

Since Congress, acting in the public interest, may enact legislation which will have the effect of impairing the obligation of contracts there could be no reasonable doubt as to the constitutionality of the provisions of this bill. The Supreme Court has on numerous occasions upheld the power of Congress to enact legislation of this character and the latest important decision is perhaps in the gold clause case—*Norman* v. *Baltimore & Ohio Railroad Company*, (294 U. S. 240), a decision with which everyone undoubtedly is familiar. In that case the Supreme Court held that Congress could enact legislation which would deprive the holders of bonds of railroad companies from their right to be paid in gold coin of a standard of weight and fineness which was fixed by the contractual obligation.

Mr. POAGE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am neither a railroad lawyer, and never was, nor am I a railroad stockholder or bondholder, and never was. Consequently, I cannot claim the professional interest and personal knowledge about this problem that some of those who have spoken profess to have. But I do have some convictions. One of the gentlemen said that he had no conviction about this bill. I realize he said this to show his impartiality, and I admire his good faith. Possibly I am not so impartial. Frankly, I do have some convictions about this matter. I have a conviction that is old-fashioned; it is reactionary; it is in direct conflict with the views just expressed by the previous speaker, who stated that the public interest should outweigh the interest of the individual. After all, I believe in private property. I believe that when an individual buys an obligation, whether it be my personal note or a bond of the New York Central Railroad, that individual gets the right to collect as long as the maker has the ability to pay. He has a right to share in the property of the individual or the corporation that executed that obligation. I do not think there is any public interest that can intervene and wipe out the right of that individual to collect his obligation. Certainly if the public has such an overwhelming interest in a railway reorganization as to require the wiping out of certain obligations, it is the duty of the public to pay those obligations. Certainly the public has an interest and a right that is greater than that of any individual. Our constitutional law long ago recognized that, and I recognize it, but just as the Constitution recognizes the obligation of the public, so do I recognize that the public has no right to take my private property, no matter what the exigencies of the public interest are, without paying me for it.

Mr. WOLVERTON. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I am sorry. I have only 5 minutes. I want to talk about these fundamentals. I do not want to talk about what the railroad lawyers are interested in. I do not want to talk about what these new-spun theorists are interested in. I am interested in maintaining the right of every individual in America to receive payment on the obligations due to him, and I am interested in the duty of every individual to pay his debt when he has the means. I am interested in seeing that railroad corporations as well as individuals are charged with the payment of their debts as long as they have the funds with which to pay them. I think that when a man signs a note he signs an obligation to pay it, and I think that when a railroad company signs a bond it signs an obligation to pay it, and I, for one, doubt that it is in the public interest to exempt railroad corporations from the obligation of contract.

This bill does not do anything in the world except to relieve certain obligors from their obligations for the benefit of a certain class in a certain group. They tell us that it is for the public. If it is for the benefit of the public, let the public pay the bill, but do not let one group of obligors be relieved of their obligation for the benefit of some bondholders and some stockholders, and above all do not try to take the bondholder's property from him without compensation and at the same time deny him recourse to the court. If you are going to take private property from railroad purposes, let us at least do it in the courthouse under the forms of law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. RABIN].

The amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MILLER of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 2298) to amend the Interstate Commerce Act, as amended, and for other purposes, pursuant to House Resolution 246, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

LABOR-MANAGEMENT RELATIONS BILL

Mr. HALLECK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HALLECK. Mr. Speaker, as I am quite sure all the Members know, tomorrow is the final day for action one way or the other on the labor-management relations bill. If there should be a veto and it comes in at noon tomorrow, it is our plan to proceed immediately with the vote to override the veto. I make this announcement in order that the Members may make their plans accordingly.

COMMITTEE ON WAYS AND MEANS

Mr. HALLECK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight to file a report on H. R. 3444.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

EXTENSION OF REMARKS

Mr. McCORMACK asked and was given permission to extend his remarks in the RECORD and include a speech recently made by a former Member of the House, Hon. James P. McGranery.

TAFT-HARTLEY BILL

Mr. LESINSKI. Mr. Speaker, I ask unanimous consent to address the House for 30 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LESINSKI. Mr. Speaker, 2 weeks ago this House closed its eyes, blocked its ears, and voted "yea" on the Taft-Hartley bill now before the President for consideration. Few Members of this House knew what was in this bill. Indeed, few of them could know. None outside of the managers on behalf of the House had a chance to see it until the very day of passage. The distinguished gentleman from Texas, the former Speaker, rose, I remember, in forceful protest against this kind of action. I believe he remarked that he had not received the statement of the managers on the part of the House until 20 minutes before noon of that day.

Now, this is an extremely complicated, extremely intricate bill. It covered more than 70 pages. The conference report covered 69 pages. No one can be blamed for not knowing the content and effects of this bill after a few hours, much less a few minutes. It does not look like the original House bill, and it does not talk like the original House bill. But, Mr. Speaker, I can assure the House—and I am prepared to show by the most unimpeachable evidence—that this conference bill was nothing but the old House bill masquerading in new legalistic clothing.

Now, few Members of this House may agree with that statement at the present time. And I believe it is the highest possible compliment to the strategy of the majority party that this may be the fact. For, by reason of the length and intricacy of this bill and aided by their insistence upon speedy action, they succeeded in convincing not only the press and a large body of the American people but even many of the distinguished Members of Congress that the bill presented for a vote more than 2 weeks ago was in fact the Senate bill.

I believe the campaign for passage of this antilabor measure was the slickest piece of operating I have seen around here in a long time. When the bill went to conference, it was termed by the press, by many of my distinguished colleagues, and by many Members of the Senate as a harsh and stringent measure. At the same time we were told that the Senate bill was a sound, reasonable, and necessary redefinition of the rights and privileges of employers and employees under Federal law.

The distinguished gentleman from New Jersey, who was chairman of the managers on the part of the House in conference committee deliberations, gave repeated public assurances that the severe provisions of the House bill were being abandoned in favor of the more conservative stand which we were to suppose had been taken by the Senate. The measure presented to us by the conference committee thereafter gained the reputation for being substantially the Senate bill, with all of the harmful provisions of our original proposal entirely eliminated. And, I am sure, Mr. Speaker, that many of us, voting both for and against the conference bill, did so under the distinct misapprehension that the Taft-Hartley bill fundamentally followed the approach used by the Senate.

I have, for instance, nothing but the deepest sympathy and understanding for the plight of my colleague, the gentleman from Michigan, who sat with me in conference over this bill as one of the managers on behalf of the House. He said the writing of the final bill shifted so rapidly that even he was unable to keep track of it. Even he could not get a copy of the conference report to see whether the bill was tough enough for him to support it.

Personally, I regarded the conference labor bill as thoroughly destructive of labor's rights and as thoroughly productive of industrial strife as the original House bill and upon these well considered grounds I voted against both. Nothing, however, could be further from the truth than the propaganda that there is a substantial difference in objectives and approach between the two bills.

Mr. Speaker, if any one were to look for it, there is the most ironclad, rock solid proof of the proposition I'm making here today. I am going to prove my point by taking every word from the statements of the gentleman from New Jersey, chairman of the committee reporting the House bill and chairman of the managers on the part of the House. If you will bear with me for a few minutes, I am going to make a brief comparison between the report on the House bill and the report on the conference bill. This is exactly the thing which every Member of this House should have had an opportunity to do prior to the passage of the conference bill, but which was unfortunately and deliberately denied by steam roller methods.

Upon page 5 and a part of page 6 of the original majority report on H. R. 3020, I found a list of 20 accomplishments claimed for the Hartley bill. It seemed to me these 20 points, claimed by the majority to represent the major features of the measure, would provide the soundest basis for comparison with the conference bill. And if the conferees on the part of the House have reported the accomplishment of the same objectives there would appear to be substantial identity bewteen the two.

The result, Mr. Speaker, is astonishing. I actually found that all except one of these listed accomplishments were repeated in the Taft-Hartley bill. In other words, the more things were changed, the more they remained exactly the same.

Let me go over each one of these points to show you what I mean. Now, mind you, these are not my words. They are the words of the two reports. I am quoting from the statements of the gentleman from New Jersey himself. I am not even going to comment for the present as to whether their effects, in my opinion, are good or bad.

Point 1 reads as follows:

(1) It abolishes the existing discredited National Labor Relations Board and creates in lieu thereof a new board of fair-minded members to exercise quasi judicial functions only.

Turning to pages 37 and 38 of the conference report, in which was discussed the creation of two new members of the Board and a new independent general counsel, charged with all prosecuting and administrative functions, I found these words:

The combination of the provisions dealing with the authority of the general counsel, the provision abolishing the Board's review division, and the provisions relating to the trial examiners and their reports effectively limits the Board to the performance of quasi-judicial functions.

In other words, Mr. Speaker, the creation of two new Board members sufficiently changes its character and the general counsel is for all purposes the exact equivalent of the independent administrator which would have been created by the Hartley bill.

This identity is stressed by the second point of the report on the Hartley bill, which states:

(2) It establishes a new official to exercise the various prosecuting and investigative functions under the National Labor Relations Act, to be entirely independent of the Board.

In relation to this comment I find on page 37 of the conference report the following:

The general counsel is to have general supervision and direction of all attorneys employed by the Board (excluding the trial examiners and the legal assistants to the individual members of the Board), and of all the officers and employees in the Board's regional offices, and is to have final authority to act in the name of, but independently of any direction, control, or review by the Board in respect of the investigation of charges and the issuance of complaints of unfair labor practices, and in respect of the prosecution of such complaints before the Board. * * * By this provision responsibility for what takes place in the Board's regional offices is centralized in one individual who is ultimately responsible to the President and Congress.

At the outset, therefore, we are told that the present enrolled bill establishes exactly the same system as the Hartley bill for administration of the Wagner Act. The Hartley bill report then turns to the question of evidence which can be considered by the Board in hearings and the effect of Board decisions upon court review. Point 3 of the list states:

(3) It requires the Board to act only upon the weight of credible legal evidence, and it gives the courts of the United States a real, rather than a fictitious, power to review the decisions of the Board.

On examining the conference report, I find, first of all, on page 53, that the provisions of the House bill, accomplishing the above objective, so far as the legal evidence at hearings is concerned, was followed verbatim by the conference bill. Here is the pertinent language:

The House bill provided, in section 10 (b), that the proceedings before the Board should be conducted, so far as practicable, in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure. * * * The conference agreement in section 10 (c) contains this provision of the House bill.

At the bottom of page 53 and on page 54 of the conference report I find that, in regard to the weight to be accorded evidence in the findings and decision of the Board, the provision of the conference bill is the counterpart of the provision of the Hartley bill. Again, I read from the conference report:

In section 10 (c) the House bill provided that the Board should base its decisions upon the weight of the evidence * * * the conference agreement provides that the Board shall act only on the "preponderance" of the testimony—that is to say, on the weight of the credible evidence.

And not only is the Board required to act upon the weight of credible, legal evidence, but also, the courts of the United States are in effect accorded the same powers on review under both bills. This is made clear on page 56 of the conference report. Here again, I quote:

The provisions of section 10 (b) of the conference agreement insure the Board's receiving only legal evidence, and section 10 (c) insures its deciding in accordance with the preponderance of the evidence. These two statutory requirements in and of themselves give rise to questions of law which the courts will hereafter be called upon to determine—whether the requirements have been met. This, in conjunction with the language of the Senate amendment with respect to the Board's findings of fact—language which the conference agreement adopts—will very materially broaden the scope of the courts' reviewing power.

Therefore, even though the conference bill adopts the language of the Senate bill in regard to court review, it nonetheless accomplishes by related provisions the purpose of giving the courts what is termed by the Hartley report "a real rather than a fictitious power to review decisions of the Board."

Point No. 4 of the Hartley bill relates to the closed shop and industry-wide bargaining. It states that both are outlawed. And both are either completely outlawed or seriously impeded by the conference bill.

First I quote from page 41 of the conference statement:

Both the House bill and the Senate amendment, in rewriting the present provisions of section 8 (3) of this act, abolished the closed shop. * * * The conference agreement adopts the language of the Senate amendment in section 8 (a) (3) of the Labor Act with one clarifying omission.

Again I quote from page 60 of the conference report:

Under the House bill there was included a new section * * * to assure that nothing in the act was construed as authorizing any * * * form of compulsory unionized agreement in any State where the execution of such agreement would be contrary to State law. * * * The conference agreement * * * contains a provision having the same effect.

When it comes to industry-wide bargaining, however, the conference report is anything but frank. It states that provisions of the House bill, restricting industry-wide bargaining, were omitted from the conference bill. Nonetheless, there is embodied in the conference bill a provision stating that in any strike imperiling the national health or safety in all or a substantial part of an industry, where an injunction has been issued, there must be a company by company vote of the employees on the final settlement offer of each employer before the injunction is discharged. There is not any doubt in my mind that this provision would effectively block industry-wide bargaining in practically every case where the employers do not desire to bargain on such a basis. The conference report on page 63 states that the House bill contained this provision. And on page 65 of the report are the words:

It is provided in the conference agreement that the employees vote on the employer's offer as stated by him.

The next accomplishment is the exemption of supervisors from the Wagner Act. By turning to page 35 of the conference report you may discover that these employees are also exempted under the conference bill after slight redefinition of the term.

Point No. 6 deals with the duty of both parties to bargain and refers to a supplementary provision for a secret ballot on the employer's last offer of settlement. The provision of the present law requiring employers to bargain collectively has been retained. The conference bill also imposes a duty on unions to bargain collectively. In this regard I want to quote from pages 42 and 44 of the statement of managers. On page 42:

Under the House bill the following unfair labor practices were set forth: * * *. To refuse to bargain collectively with the employer.

On page 43:

Under the new section 8 (b) of the Senate amendment, the following unfair labor practices on the part of labor organizations and their agents were defined: * * *. To refuse to bargain collectively with an employer.

And again on page 44, relating to the prior comments:

From the above description of the House bill and the Senate amendment dealing with unfair labor practices on the part of labor organizations and their agents, it is apparent that the Senate amendment was broader in its scope than the corresponding provisions of the House bill. The conference agreement adopts the provisions of the Senate amendment.

Now, I have already gone over some of the provisions of the conference bill covering the requirements of secret ballots in emergency disputes. But I want to call your attention to pages 62 and 63 of the conference report regarding the duties of the Director of Mediation and Conciliation. I quote:

One important duty of the Director which was not included in the Senate amendment is included in the conference agreement and is derived from the provisions of the House bill providing for a secret ballot by employees upon their employer's last offer of settlement before resorting to a strike.

It is perfectly clear to me, therefore, that point 6 of the listed accomplishments of the Hartley bill has been effectively carried over into the conference bill.

Point 7 professes protection for independent labor organizations on the same basis as affiliated labor organizations. This point is covered on page 48 of the conference report. I want to quote it in full:

It was further provided—

That is, in the House bill—

that employees were not to be denied the right to designate or select a representative of their own choosing by reason of an order of the Board with respect to such representative or its predecessor that would not have been issued in similar circumstances with respect to a labor organization, national or international in scope or affiliated with such an organization. The Senate amendment in section 9 (c) (3), contained a provision having the same purpose. Both the House provision and the Senate provision were directed to the practice of the Board in denying employees the right to vote for independent labor organizations in respect of which orders had been issued by the Board under section 8 (1) or 8 (2) finding employer domination where, under similar circumstances, it did not apply the same rule to unions affiliated with one of the national labor organizations. * * * The conference agreement, in section 9 (c) (2) contains a provision having the same purpose and effect.

What, may I ask, could give greater protection than insuring a place on the ballot for company unions on an equal footing with bona fide labor organizations.

The next point 8: No labor organization may be certified if it has Communist or subversive officers. Page 49 of the conference report explains that the same provision is in the conference bill with its effect limited to present membership in the Communist Party. The reason for this is readily explained. I quote from page 49:

The "ever has been" test that was included in the House bill is omitted from the conference agreement as unnecessary, since the Supreme Court has held that if an individual has been proved to be a member of the Communist Party at some time in the past, the presumption is that he is still a member in the absence of proof to the contrary.

Rights which union members can claim of labor organizations are claimed

to be protected by point 9 of the accomplishments of the Hartley bill. In this regard, I call your attention to pages 38, 39, 40, 42, and 43 of the conference report. I want to quote first from page 38:

Both the House bill and the Senate amendment in amending the National Labor Relations Act preserved the right under section 7 of that act of employees to self-organization, to form, join or assist any labor organization, and to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. The House bill, however, made two changes in that section of the act. First, it was stated specifically that the rights set forth were not to be considered as including the right to commit or participate in unfair labor practices, unlawful concerted activities, or violations of collective-bargaining contracts. Second, it was specifically set forth that employees were also to have the right to refrain from self-organization, etc., if they chose to do so.

On page 39:

It was believed that the provisions, excepting unfair labor practices, unlawful concerted activities and violations of collective-bargaining agreements were unnecessary.

Next from page 40:

The second change made by the House bill in section 7 of the act (which is carried into the conference agreement) also has an important bearing on the kinds of concerted activities which are protected by section 7.

Then on page 42:

Under the new section 8 (b) of the Senate amendment, the following unfair labor practices on the part of labor organizations and their agents were defined:

(1) To restrain or coerce employees in the exercise of rights guaranteed in section 7, or to restrain or coerce an employer in the selection of his representatives for collective bargaining or the adjustment of grievances.

Again on page 43:

(2) To discriminate against an employee to whom membership in a labor organization has been denied or terminated on some ground other than nonpayment of dues or initiation fees. The purpose of this provision of the Senate amendment was obvious.

I turn to page 44:

The conference agreement adopts the provisions of the Senate amendment.

Now, it seems to me that no measure could demonstrate a more solicitous attempt to protect union members from their union even though the real purpose and effect is to protect the employer from the union and to weaken or destroy any democratic union control of its members by the cherished principles of majority rule.

Next comes point 10, outlawing sympathy strikes, jurisdictional strikes, illegal boycotts, collusive strikes by employees of competing employers, and sit-down strikes. These features of the House bill are treated on page 59 of the conference report, and I quote:

Many of the matters covered in section 12 of the House bill are also covered in the conference agreement in different form, as has been pointed out above in the discussion of section 7 and section 8 (b) (1) of the conference agreement. Under existing principles of law developed by the courts and recently applied by the Board, employees who engage in violence, mass picketing, unfair labor practices, contract violations, or other improper conduct, or who force the employer to violate the law, do not have any immunity under the act and are subject to discharge without right of reinstatement. The right of the employer to discharge an employee for any such reason is protected in specific terms in section 10 (c). Furthermore, under section 10 (j) of the conference agreement, the Board is given authority to apply to the district courts for temporary injunctions restraining alleged unfair labor practices temporarily pending the decision of the Board on the merits.

In other words, section 8 (b) (1) makes mass picketing and sit-down strikes unfair labor practices and section 8 (b) (4) of the conference bill similarly outlaws sympathy strikes, jurisdictional strikes, illegal boycotts, and collusive strikes by employees of competing employers. Any employees participating in these activities may certainly be discharged for cause and are not entitled to reinstatement. And when I read sections 10 (j) and 10 (l) of the conference bill, I find that the National Labor Relations Board can seek court injunctions against mass picketing, jurisdictional strikes, and sit-down strikes, and must apply for injunctions against all of the other mentioned practices. On top of all this, employers are given a cause of action to recover any damages caused by the activities made unfair by section 8 (b) (4). The managers on the part of the House therefore cannot contend that they gave any real concessions on this phase of the House bill.

Point 11 is that the House bill outlaws strikes to remedy practices for which an administrative remedy is available, or to compel an employer to break the law. I believe this is taken care of by Section 8 (b) (4) (C) of the conference bill outlawing strikes to force recognition of unions other than those certified by the Board and I again place particular emphasis upon the admission of the conferees on page 44 of the report to the effect it is apparent that the Senate amendment is broader in its scope in regard to this provision than the corresponding provision of the House bill.

Point 12 I have already covered in substance. This point relates to mass picketing and forms of violence designed to prevent persons from entering or leaving places of employment. Sections 7 and 8 (b) (1) of the conference bill combine to make these activities unfair because they are coercion by unions and are subject to injunctions and to damage suits as explained on pages 42 and 43 of the conference report:

This provision of the Senate amendment in its general terms covered all of the activities which were prescribed in section 12 (a) (1) of the House bill as unlawful concerted activities and some of the activities which were proscribed in the other paragraphs of section 12 (a). While these restraining and coercive activities did not have the same treatment under the Senate amendment as under the corresponding provisions of the House bill, participation in them, as explained in the discussion of section 7, is not a protected activity under the act. Under the House bill, these activities could be enjoined upon suit by a private employer, specific provision was made for suits for damages on the part of any person injured thereby, and employees participating therein were subject to deprivation of their rights under the act. The conference agreement, while adopting section 8 (b) (1) of the Senate amendment, does not by specific terms contain any of these sanctions, but an employee who is discharged for participating in them will not, as explained in the discussion of section 7, be entitled to reinstatement. Furthermore, since in section 302 (b), unions are made suable, unions that engage in these practices to the injury of another may subject themselves to liability under ordinary principles of law. Then, too, under the provisions of section 10 (j) of the conference agreement the Board can seek a temporary injunction enjoining these practices pending its decision on the merits.

Point 13, which governs stranger picketing, has also been covered by Sections 7 and 8 (b) (1), since picketing a plant in which no labor dispute has occurred would constitute the coercion. This is covered by my above quotation from page 42 of the conference report.

Point 14, which lists the creation of a cause of action in damages for unlawful concerted activities, relates right back to point 10. Sections 301 and 303 of the conference bill provide the very remedy of which the House committee report boasts. The matter is treated at length on page 67 of the conference report:

Section 303 of the Senate amendment contained a provision the effect of which was to give persons injured by boycotts and jurisdictional disputes described in the new section 8 (b) (4) of the National Labor Relations Act a right to sue the labor organization responsible therefor in any district court of the United States (subject to the limitations and provisions of the section dealing with suits by and against labor organizations) to recover damages sustained by him together with the costs of the suit. A comparable provision was contained in the House bill in the new section 12 of the National Labor Relations Act dealing with unlawful concerted activities. The conference agreement adopts the provisions of the Senate amendment with clarifying changes.

As for the next point, it is stated that the House bill prescribes unfair labor practices by employees as well as employers. I think I have covered this sufficiently by my previous remarks. Certainly no one can question that there are a host of these new unfair labor practices in the conference bill. The pages of the report are filled with intricate discussion of their effects. I refer particularly to pages 42 to 46 of the report, from many of which I have already quoted. The fact that the final bill makes these unfair when performed by labor organizations and their agents is a minor distinction between the two measures.

Going further down the line of achievements claimed for the Hartley bill, I read next under point 16 that it creates a new and independent conciliation agency. And, as explained on page 62 of the conference report, this is the effect of title II of the conference bill. The United States Conciliation Service is abolished and a new independent Federal Mediation and Conciliation Service is created under the leadership of a Director appointed by the President.

Three of the remaining four points of the Hartley report are clearly covered by the conference bill and the conference report. Suits for contract violations in the Federal courts mentioned by point 18 are available under the final bill and are

treated in detail on pages 65 and 66 of the report:

Section 302 (a) of the House bill provided that any action for or proceeding involving a violation of a contract between an employer and a labor organization might be brought by either party in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, if such contract affected commerce, or the court otherwise had jurisdiction. Under the Senate amendment the jurisdictional test was whether the employer was in an industry affecting commerce or whether the labor organization represented employees in such an industry. This test contained in the Senate amendment is also contained in the conference agreement, rather than the test in the House bill which required that the "contract affect commerce."

The immediately preceding pages also explain an elaborate method for stopping strikes which imperil or threaten to imperil the public health, safety, or interest. This is the practical counterpart of point 19 of the Hartley report. And the last point, namely, that the Hartley bill guarantees freedom of speech to employers, employees, and their representatives is outlined on page 45 of the conference report, where it is stated that the conference agreement adopts the provisions of the House bill in this respect.

Now the only point which does not seem to me to have been completely covered by the conference report is No. 17, stating that the Hartley bill removes the exemption of labor unions from the antitrust laws. This would be a fortunate thing if it were actually true. The conference bill, however, subjects unions to mandatory injunctions sought by the Board, to damage suits and to unfair labor practice proceedings, for practically every type of conduct in the use of economic force which formerly rendered these unions liable to damages and injunctions under the antitrust laws. The Norris-LaGuardia Act would be thrown out the window in these proceedings. The more recent decisions of the Supreme Court finally recognizing an effective exemption from the antitrust laws would be reversed by the Congress. The rule of the Danbury Hatters and Duplex cases of years ago would be revived again to plague unions in the legitimate use of the strike and the boycott to protect their very existence. This, therefore, Mr. Speaker, represents only a modest departure from the extreme position of the Hartley bill. I cannot recognize it as providing an important change from the policies and purposes of that measure. Nor does the conference report itself recognize this as a change. This is shown by the comment on page 65 of the conference report:

Since the matters dealt with in this section have to a large measure been effectuated through the use of boycotts, and since the conference agreement contains effective provisions directly dealing with boycotts themselves, this provision is omitted from the conference agreement.

There is the story, Mr. Speaker. It is in black and white. The gentleman from New Jersey has provided us with the complete picture provided we only look far enough. This irrefutable evidence exposes all the duplicity, all the misconceptions, and all the confusing double talk which have surrounded this measure. I am determined to have this story made clear once and for all. I am determined to make this point for the record and make it stick. That is my plain duty to the American people who must no longer be deceived.

GENERAL LEAVE TO REVISE AND EXTEND REMARKS

Mr. WOLVERTON. Mr. Speaker, I ask unanimous consent that all Members who have spoken on the bill H. R. 2292 may revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXTENSION OF REMARKS

Mr. GILLIE asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. HARRIS asked and was given permission to revise and extend the remarks he made in Committee of the Whole on the bill, H. R. 2298, and include herewith questions which he propounded and replies thereto by Mr. Mahaffie before the committee during the hearings.

Mr. MURDOCK asked and was given permission to extend his remarks in the RECORD and include extracts from certain publications.

Mr. JUDD asked and was given permission to extend his remarks in the RECORD and include a portion of the State Department Appropriation Act under which the so-called Voice of America operates.

Mrs. SMITH of Maine asked and was given permission to extend her remarks in the RECORD and include a speech recently made by Hon. MARY T. NORTON at the International Council of Nurses at Atlantic City.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. BENNETT of Michigan (at the request of Mr. ARENDS), indefinitely, on account of illness.

To Mr. DOLLIVER (at the request of Mr. HOEVEN), for 3 days, on account of official business.

ENROLLED BILL SIGNED

Mr. LECOMPTE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 3792. An act to provide for emergency flood-control work made necessary by recent floods, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. LECOMPTE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H. R. 310. An act to authorize the Secretary of War to permit the delivery of water from the District of Columbia and Arlington County water systems to the Falls Church or other water systems in the metropolitan area of the District of Columbia in Virginia;

H. R. 360. An act for the relief of the legal guardian of Francis Eugene Hardin, a minor;

H. R. 468. An act to amend section 115 of the Internal Revenue Code in respect of distributions by personal holding companies;

H. R. 620. An act for the relief of Blanche E. Broad;

H. R. 651. An act for the relief of the estate of Rubert W. Alexander;

H. R. 723. An act for the relief of the legal guardian of Hunter A. Hoagland, a minor;

H. R. 765. An act for the relief of Elwood L. Keeler;

H. R. 888. An act for the relief of certain owners of land who suffered loss by fire in Lake Landing Township, Hyde County, N. C.;

H. R. 925. An act for the relief of Therese R. Cohen;

H. R. 1065. An act for the relief of the estate of Thomas Gambacorto;

H. R. 1221. An act for the relief of Eva Bilobran;

H. R. 1237. An act to regulate the marketing of economic poisons and devices, and for other purposes;

H. R. 1344. An act to admit the American-owned ferry *Crosline* to American registry and to permit its use in coastwise trade;

H. R. 1412. An act to grant to the Arthur Alexander Post, No. 68, the American Legion, of Belzoni, Miss., all of the reversionary interest reserved to the United States in lands conveyed to said post pursuant to act of Congress approved June 29, 1938;

H. R. 1482. An act for the relief of the legal guardian of Gilda Cowan, a minor;

H. R. 1624. An act to authorize payment of allowances to three inspectors of the Metropolitan Police force for the use of their privately owned motor vehicles, and for other purposes;

H. R. 1874. An act to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes;

H. R. 2207. An act to authorize the Secretary of the Interior to convey certain lands within the Shiloh National Military Park, Tenn., and for other purposes;

H. R. 2237. An act to correct an error in section 342 (b) (8) of the Nationality Act of 1940, as amended;

H. R. 2257. An act for the relief of the Southeastern Sand & Gravel Co.;

H. R. 2353. An act to authorize the patenting of certain public lands to the State of Montana or to the Board of County Commissioners of Hill County, Mont., for public-park purposes;

H. R. 2363. An act to amend paragraph 8 of part VII, Veterans Regulation No. 1 (a), as amended, to authorize an appropriation of $3,000,000 as a revolving fund in lieu of $1,500,000 now authorized, and for other purposes;

H. R. 2852. An act to provide for the addition of certain surplus Government lands to the Otter Creek recreational demonstration area, in the State of Kentucky;

H. R. 2872. An act to amend further section 4 of the Public Debt Act of 1941, as amended, and clarify its application, and for other purposes;

H. R. 3143. An act to authorize the construction, operation, and maintenance of the Paonia Federal reclamation project, Colorado;

H. R. 3151. An act to grant a certain water right and a certain parcel of land in Clark County, Nev., to the city of Las Vegas, Nev.;

H. R. 3197. An act to authorize the Secretary of the Interior to contract with the Mancos Water Conservancy District increasing the reimbursable construction cost obligation of the district to the United States for construction of the Mancos project and extending the repayment period;

H. R. 3348. An act to declare the policy of the United States with respect to the allocation of costs of construction of the Coachella division of the All-American Canal irrigation project, California;

H. R. 3604. An act to authorize the Methodist Home of the District of Columbia to make certain changes in its certificate of incorporation with respect to stated objects;

H. J. Res. 188. Joint resolution authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to the dead of the First Infantry Division, United States Forces, World War II; and

H. J. Res. 210. Joint resolution to extend the time for the release, free of estate and gift tax, of certain powers, and for other purposes.

ADJOURNMENT

Mr. HALLECK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 9 minutes p. m.) the House adjourned until tomorrow, Friday, June 20, 1947, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

809. A communication from the President of the United States, transmitting supplemental estimates of appropriation for the fiscal year 1948 in the amount of $1,743,000 for the Department of Labor (H. Doc. No. 331); to the Committee on Appropriations and ordered to be printed.

810. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year 1948 in the amount of $35,000 for the legislative branch, Library of Congress, in the form of an amendment to the budget for said fiscal year (H. Doc. No. 332); to the Committee on Appropriations and ordered to be printed.

811. A letter from the Secretary of State, transmitting a draft of a proposed joint resolution to amend the joint resolution providing for the membership of the United States in the American International Institute for the Protection of Childhood; to the Committee on Foreign Affairs.

812. A letter from the Acting Secretary of the Navy, transmitting a report of a proposed transfer of naval equipment to the Junior Midshipmen of America, Inc., of Connecticut; to the Committee on Armed Services.

813. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated December 9, 1946, submitting a report, together with accompanying papers, on a preliminary examination of Winterport Harbor, Maine, authorized by the River and Harbor Act approved on March 2, 1945; to the Committee on Public Works.

814. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated December 9, 1946, submitting a report, together with accompanying papers, on a review of reports on the intracoastal waterway from Choctawhatchee Bay to Pensacola Bay, Fla., and a preliminary examination and survey of waterway from the intracoastal waterway south across Santa Rosa Island, Fla., to a point at or near Deer Point Light, requested by a resolution of the Committee on Rivers and Harbors, House of Representatives, adopted on October 5, 1940, and also authorized by the River and Harbor Act approved on March 2, 1945; to the Committee on Public Works.

815. A letter from the Under Secretary of Agriculture, transmitting a report on the cooperation of the United States with Mexico in the control and eradication of foot-and-mouth disease; to the Committee on Agriculture.

816. A communication from the President of the United States, transmitting a copy of a report from the Secretary of State indicating a course of action which the Secretaries of State, War, Navy, and Interior have agreed should be followed with respect to the administration of Guam, Samoa, and the Pacific islands to be placed under United States trusteeship (H. Doc. No. 333); to the Committee on Public Lands and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BURKE: Committee on Merchant Marine and Fisheries. H. R. 107. A bill for the acquisition and maintenance of wildlife management and control areas in the State of California, and for other purposes; with an amendment (Rept. No. 609). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOLLEFSON: Committee on Merchant Marine and Fisheries. H. R. 859. A bill to provide for the exploration, investigation, development, and maintenance of the fishing resources and development of the high seas fishing industry of the Territories and island possessions of the United States in the tropical and subtropical Pacific Ocean and intervening seas, and for other purposes; with amendments (Rept. No. 610). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRADLEY: Committee on Merchant Marine and Fisheries. H. R. 3569. A bill to authorize the construction of a chapel and a library at the United States Merchant Marine Academy at Kings Point, N. Y., and to authorize the acceptance of private contributions to assist in defraying the cost of construction thereof; with an amendment (Rept. No. 611). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT of Missouri: Committee on Interstate and Foreign Commerce. House Joint Resolution 211. Joint resolution consenting to an interstate oil compact to conserve oil and gas; without amendment (Rept. No. 612). Referred to the Committee of the Whole House on the State of the Union.

Mr. SPRINGER: Committee on the Judiciary. H. R. 1639. A bill to amend the Employers' Liability Act so as to limit venue in actions brought in United States district courts or in State courts under such act; with an amendment (Rept. No. 613). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOFFMAN: Committee on Expenditures in the Executive Departments. S. 1316. An act to establish a procedure for facilitating the payment of certain Government checks, and for other purposes; without amendment (Rept. No. 614). Referred to the Committee of the Whole House on the State of the Union.

Mr. SADLAK: Committee on Post Office and Civil Service. H. R. 1995. A bill to amend the Civil Service Retirement Act of May 29, 1930, as amended, to provide for the return of the amount of deductions from the compensation of any employee who is separated from the service or transferred to a position not within the purview of such act before completing 10 years of service; with amendments (Rept. No. 615). Referred to the Committee of the Whole House on the State of the Union.

Mr. REES: Committee on Post Office and Civil Service. H. R. 3813. A bill to provide for removal from, and the prevention of appointment to, offices or positions in the executive branch of the Government of persons who are found to be disloyal to the United States; without amendment (Rept. No. 616). Referred to the Committee of the Whole House on the State of the Union.

Mr. REED of New York. Committee on Ways and Means. H. R. 3444. A bill to amend section 251 of the Internal Revenue Code; without amendment (Rept. No. 617). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of New York:

H. R. 3905. A bill to authorize the transfer of lands in the Fort Wingate Military Reserve, N. Mex., from the War Department to the Interior Department; to the Committee on Armed Services.

H. R. 3906. A bill to amend the act entitled "An act to make provision for the care and treatment of members of the National Guard, Organized Reserves, Reserve Officers' Training Corps, and citizens' military training camps who are injured or contract disease while engaged in military training, and for other purposes," approved June 15, 1936, as amended; to the Committee on Armed Services.

By Mr. DONDERO:

H. R. 3907. A bill to authorize construction of buildings for the Bureau of Old-Age and Survivors Insurance; to the Committee on Public Works.

By Mr. MORRISON:

H. R. 3908. A bill to amend the Armed Forces Leave Act of 1946 so as to require payments under section 6 of such act to be made to persons entitled thereto without requiring them to make applications for such payments; to the Committee on Armed Services.

By Mr. SCOBLICK:

H. R. 3909. A bill to provide for the advancement in grade upon appointment to regular positions of certain substitute employees in the postal service who are veterans of World War II; to the Committee on Post Office and Civil Service.

By Mr. TOWE:

H. R. 3910. A bill to amend the Armed Forces Leave Act of 1946 so as to extend the benefits thereof to certain officers discharged prior to its enactment; to the Committee on Armed Services.

By Mr. WEICHEL (by request):

H. R. 3911. A bill to continue temporary authority of the Maritime Commission until March 1, 1948; to the Committee on Merchant Marine and Fisheries.

By Mr. WOODRUFF:

H. R. 3912. A bill to amend section 2000 (a) (2) and 2000 (c) (2) of the Internal Revenue Code relating to taxes on tobacco and tobacco products; to the Committee on Ways and Means.

By Mr. GATHINGS:

H. R. 3915. A bill to increase the size of the Arkansas-Mississippi Bridge Commission, and for other purposes; to the Committee on Public Works.

By Mr. LANDIS:

H. J. Res. 220. Joint resolution establishing a code for health and safety in bituminous coal and lignite mines of the United States the products of which regularly enter commerce or the operations of which substantially affect commerce; to the Committtee on Education and Labor.

By Mr. RANKIN:

H. Res. 250. Resolution banning salacious moving pictures; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COURTNEY:

H. R. 3913. A bill for the relief of Willie Ruth Chapman; to the Committee on the Judiciary.

By Mr. MORRISON:

H. R. 3914. A bill for the relief of James Leon Keaton; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

653. By Mr. ANDREWS of New York: Resolution adopted by the Buffalo Council for a Permanent Fair Employment Practice Commission, Buffalo, N. Y., urging favorable action on H. R. 2824 and S. 984, providing for a Fair Employment Practice Commission, in this session of Congress; to the Committee on Education and Labor.

654. By Mr. LYNCH: Petition of Publishers Printing Co. chapel, New York City, urging that Congress take immediate steps to amend the social-security law by reducing the retirement age from 65 to 60 and increasing monthly payments by 100 percent; to the Committee on Ways and Means.

655. By the SPEAKER: Petition of the secretary and president of the Triumvirate Friends Club, Mexico, petitioning consideration of their resolution with reference to expressing appreciation of the citizens of Cuautla for the honors paid to the Mexican people in the person of their ruler, Lic. Miguel Alemán Valdés; to the Committee on Foreign Affairs.

SENATE

FRIDAY, JUNE 20, 1947

(Legislative day of Monday, April 21, 1947)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Rev. John E. Garvin, of the diocese of Bismarck, N. Dak., offered the following prayer:

Almighty and Eternal God, we adore Thee, and we promise obedience to Thy Holy Law.

We pray Thee, O God of might, of wisdom, and of justice, through whom authority is rightly administered, laws are enacted, and judgments decreed, assist, with Thy Holy Spirit of counsel and fortitude, the Members of the Senate of these United States, that their ministrations may be conducted in righteousness and be eminently useful to Thy people, whom they represent. Let the light of Thy divine wisdom direct their deliberations and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge, and may perpetuate to us the blessings of equal liberty.

Grant to them this day the grace to work with gratitude and joy, considering it an honor to employ and develop the talents they have received from God; to work with order, peace, moderation, and patience, ever recoiling before weariness or difficulties; to work, above all, with purity of intention and with detachment from self, having always before their eyes the public good and the welfare of our country. Inspire them with Thy wisdom and strengthen them with Thy power, so that the results of their words and actions may be characterized by justice and prudence and the government of our great country may conform always to Thy holy will.

Through Christ our Lord. Amen.

THE JOURNAL

On request of Mr. WHERRY, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, June 19, 1947, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 966. An act to amend section 14 of the Veterans' Preference Act of June 27, 1944 (58 Stat. 387);

H. R. 1389. An act to amend the Veterans' Preference Act of 1944; and

H. R. 2298. A bill to amend the Interstate Commerce Act, as amended, and for other purposes.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

AMERICAN INTERNATIONAL INSTITUTE FOR THE PROTECTION OF CHILDHOOD

A letter from the Secretary of State, transmitting a draft of proposed legislation to amend the joint resolution providing for the membership of the United States in the American International Institute for the Protection of Childhood (with accompanying papers); to the Committee on Foreign Relations.

DONATIONS BY NAVY DEPARTMENT TO NONPROFIT INSTITUTIONS AND ORGANIZATIONS

A letter from the Secretary of the Navy, reporting, pursuant to law, a list of institutions and organizations, all nonprofit and eligible, which have requested donations from the Navy Department; to the Committee on Armed Services.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Archivist of the United States, transmitting, pursuant to law, a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The PRESIDENT pro tempore appointed Mr. LANGER and Mr. CHAVEZ members of the committee on the part of the Senate.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on Finance:

"Senate Joint Resolution 23

"Joint resolution memorializing the President and the Congress of the United States in relation to the Federal income tax as it affects community-property States

"Whereas there appears to be a movement on the part of non-community-property States to secure the passage of Federal legislation which would deny to residents of California the right to file separate income-tax returns on community income or which would arbitrarily permit in every State the division of all income of one spouse with the other, without regard to the law of that State; and

"Whereas California, Arizona, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington are community-property States under the laws of which husband and wife are each the owner of one-half of the community property; and

"Whereas by reason of such community ownership husband and wife own all community property and all community income equally, for all purposes, including the responsibility of paying taxes thereon; and

"Whereas Federal income taxes are, and ought to be, levied against the owner of income as determined by law; and

"Whereas such proposed legislation would fictitiously permit persons who are the legal owners of income to avoid payment of Federal income tax thereon; or which in community-property States would force payment of a tax on income which is not legally owned by the husband, completely disregarding the bona fide and historic property laws of California and the several States relating to property and income acquired after marriage; and

"Whereas the community-property law was in effect in the western region of the United States prior to the admission of California into the Union, and the property rights then in effect were guaranteed to the residents of California by the treaty with Mexico under which California became a part of the United States; and

"Whereas such proposed legislation would thus, by indirection, destroy the property rights of citizens of California as guaranteed by said treaty; and

"Whereas these community-property rights are in jeopardy because of pending Federal legislation: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California (jointly), That the President and the Congress of the United States are hereby respectfully memorialized and requested to take such steps as may be necessary to defeat such proposed legislation as, in part, are represented by H. R. 1759, by Mr. REEVES; amendment to H. R. 1 (Knutson bill), by Mr. BUTLER; S. 626, by Mr. CORDON; S. 649, by Mr. TYDINGS; S. 550, by Mr. LANGER; H. R. 2219, by Mr. ANGELL; H. R. 2002, by Mr. ROBERTSON.

"Resolved, That the secretary of the senate prepare and transmit copies of this resolution to the President of the United States, to the President pro tempore of the Senate, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California."

A letter in the nature of a petition from L. Graham Lehman, Washington, D. C., praying for the passage, over the President's veto, of the so-called Taft-Hartley labor bill (with